

**CHARTER COMMISSION
CITY AND COUNTY OF HONOLULU
711 Kapiolani Blvd. Suite 1485
Honolulu, Hawaii 96813**



**TUESDAY, FEBRUARY 7, 2006
REGULAR MEETING**

**CITY COUNCIL COMMITTEE ROOM
SECOND FLOOR
CITY HALL**

MINUTES

Charter Commission Members Present:

Donn M. Takaki
Jeffrey T. Mikulina (Late 2:30 p.m.)
Andrew Chang
Jerry Coffee
E. Gordon Grau
Amy Hirano
Jared Kawashima
Darolyn H. Lendio
Stephen Meder
James Pacopac (Late 2:05 p.m.)
Jan Sullivan (Late 2:07 p.m.)

Charter Commission Members Excused:

Jim Myers
Malcolm Tom

Others Present:

Chuck Narikiyo, Executive Administrator, Charter Commission
Lori K. K. Sunakoda, Deputy Corporation Counsel, Department of Corporation Counsel
Dawn Spurlin, Deputy Corporation Counsel, Department of Corporation Counsel
Loretta Ho, Secretary, Charter Commission
Nicole Love, Researcher, Charter Commission

1. Call to Order

Chair Donn Takaki called the meeting to order at 2:00 p.m. on February 7, 2006. Chair Takaki went over housekeeping rules and stated that testimony will be limited to three minutes due to the large number of testifiers and must be related to the agenda.

For Approval

2. Minutes from December 13, 2005 meeting

Action:

Commission Lendio moved to approve the minutes of December 13, 2005 meeting. Commissioner Hirano seconded the motion. Chair Takaki asked for further discussion. Discussion followed.

Chair Takaki asked the Executive Administrator Narikiyo if he determines the appropriate level of details for the minutes. Executive Administrator Narikiyo responded it is more than legally required but for future legislative history purposes, tries to be fairly comprehensive and recorded all the meaningful comments. Chair Takaki asked for correction on pages 18 and page 19; #5 Proposal 45 noted under "action" that the Commissioners voted on Proposal 45 and in the second motion, the minutes refer to proposal 36. Executive Administrator Narikiyo stated it was a typographical error and will make corrections. Chair Takaki commented that the staff did a great job.

All commissioners present voted in favor of the motion, and the motion was passed.

(COMMISSIONERS PACOPAC AND SULLIVAN ARRIVE)

3. Executive Administrator's Report

Executive Administrator Narikiyo noted there are 15 proposals on today's agenda, they have posted the new list on the Commission website, notified their e-mail list, advised the City Council and Administration and sent letters to submitters on the lists.

Executive Administrator Narikiyo discussed the March public outreach meetings. They have reserved the following tentative dates and locations:

March 14, 2006 – Kapolei Hale
March 21, 2006 – Kailua High School
March 28, 2006 – Kaiser High School

Executive Administrator Narikiyo went on to say he has canvassed the Commissioners' availability for March 14 and the availability was low as a lot of the Commissioners would be out of town. He went on to say they may not have 7 Commissioners to attend that meeting and may need to reschedule that meeting and would get the availability of the Commissioners and come up with alternative dates. If they do decide to change the meeting they would give as much notice as possible to the public.

4. Discussion and Action – Initial Discussion and Vote on Proposal Items:

DISCUSSION:

A. RELATING TO THE ELECTIONS PROCESS

1. **PROPOSAL 5** - Elections; Eliminate the first special election when there are only two candidates for an office.

The following individuals testified:

1. Peter Carlisle, Prosecuting Attorney, Department of Prosecuting Attorney (Support)
2. Tom Heinrich

Written testimony:

1. Shannon Wood
2. William Woods-Bateman (Support)

Peter Carlisle testified in support. He stated the basic principle of the proposal is that to elect an official you should have the maximum voters involved as possible. He went on to say currently if there are 3 or more people at the first special election of a non-partisan race, if one person gets 50% plus 2 votes the election is over but if it's less than 50% then the other 2 move on to a second special election that coincides with the general election. Mr. Carlisle stated during the general elections between 150,000 – 200,000 more voters show. He goes on to say the reason they vote only in the general elections is because they are independent and don't have a political party preference. If the Commissioners leave the Charter the way it is currently and if there are only two candidates for an office placed on the ballot for the primary election, there are fewer voters voting for that position. He went on to say that's not what is needed but needs to have the maximum amount of voters involved. If there are three candidates, to leave it the way it is but if there are only two candidates, it should be run along with the general election to get a representative who is approved by the vast majority of the voters. Mr. Carlisle stated the current process stymies the democratic process but if this charter amendment passes this would enhance

it by having more voters participate in the election process. Chair Takaki asked Mr. Carlisle when was the last time there were only two members in a non-partisans race. Mr. Carlisle responded when he ran for Prosecuting Attorney in 2004 against Keith Kaneshiro. Mr. Carlisle went on to say it's not a representative sample if they only run in the primary but if they run in the general it's a far more representative sample of the island of Oahu because much more voters show up.

Tom Heinrich testified in support. He goes on to say as Mr. Carlisle testified previously, if there is only two candidates it's best to have them on the ballot during the general election time as there are more voters participating rather than further confuse things during the primary election.

2. **PROPOSAL 6** - Elections; Return to partisan elections for the Mayor and City Council.

The following individuals testified:

1. Tom Heinrich
2. Charles Prentiss, Oahu County Committee Democratic Party of Hawaii (Support)
3. Richard Port, Oahu County Committee Democratic Party of Hawaii (Support)
4. Jimmy Toyama, Oahu County Committee Democratic Party of Hawaii
5. Michael Abe
6. Hal Barnes
7. William Woods-Bateman
8. Donovan Dela Cruz, Council Chair, Honolulu City Council
9. Charles Djou, Councilmember, Honolulu City Council (Oppose)
10. Shannon Wood (Support)

Written testimony:

1. Lynne Matusow (Support)
2. Charles Prentiss, Oahu County Committee Democratic Party of Hawaii (Support)
3. Richard Port, Oahu County Committee Democratic Party of Hawaii (Support)
4. Oahu County Committee Democratic Party of Hawaii (Support)
5. William Woods-Bateman (Support)
6. Donovan Dela Cruz, Council Chair, Honolulu City Council
7. Wayne Hashiro, Acting Managing Director, City & County of Honolulu
8. Shannon Wood

Tom Heinrich testified in support. He noted Proposal 85 is identical to this proposal in subject matter and he supported one of the proposals moving

forward. Mr. Heinrich stated on certain aspects as Mr. Carlisle noted earlier, getting as many voters to participate both as candidates and as voters in the primary and general election to encourage greater participation. He noted recent history has shown non-partisan elections have not drawn out more candidates. Commissioner Lendio stated the proposal in 1992 had overwhelming support from the public in passing the amendment and asked Mr. Heinrich what does the Commission do regarding that mandate? She went on to say do they disregard it because a length of time has already passed where they can say they don't have to look at those results? Commissioner Lendio asked if the Charter Commissioners have to take the 1992 result of overwhelming support of that mandate seriously? Mr. Heinrich responded they need to revisit that amendment and thinks it disregards the number of different things that have happened nationally and locally as related to partisan, non-partisan offices, number of candidates, the 2000 Presidential election with the contested post election activities. He went on to say he feels this is an opportunity to look at what has our experience been and the concern if there were enough publicity, education etc., how many other proposals were on the 1992 ballot now that 14 years of experience have passed since 1992 and is it something the Commission should revisit. Mr. Heinrich stated not as a vacuum but with some other agenda items, when presenting certain governance issues at the public hearing and during the 2006 general election it is more of a issue of how to encourage more residents to participate. Commissioner Lendio stated she knows Mr. Heinrich has been involved with local politics for a long time and asked Mr. Heinrich if there has been a study by the Democratic party or anyone else looking at this particular item where voters have identified the fact that the Mayor and Council's race are non-partisan discourages them from participating in that type of race. Commissioner Lendio went on to ask if there was a formal or informal poll, solid data or something that shows there's a nexus between what he is stating as voter apathy and the fact the numbers have been declining over the years because it's a non-partisan race? Mr. Heinrich responded he could only provide anecdotal comments from the last couple of mayoral elections in which part of the push when the main push is in the first special, primary election, if they can get the 50% plus 1 vote at that point, then they are done with the election and it doesn't happen very often then they have to continue the campaign activities for those couple of individuals to the general elections. Mr. Heinrich stated he'd defer to Richard Port, Jimmy Toyama and Chuck Prentiss as to whether there has been more specific research has been done for the State or the City and County of Honolulu for the Democratic Party and stated he's not personally aware of any study done but more anecdotal frustration when the main focus remains on the general election.

Charles Prentiss testified in support. Mr. Prentiss read his written testimony into the record. Commissioner Lendio asked Mr. Prentiss how whether or not how their position looking at the mandate passed in 1992 and if enough time has passed. She also asked if the Democratic Party has done any study or informal

polling indicating if there are any type of problems with the non-partisan elections in terms generating interest and having some sort of data in back up that position? Mr. Prentiss responded that Mr. Heinrich is correct by saying we have 14 years experience and have identified the problems as it hasn't been what people thought it would be and actually have decreased involvement with elections and feels it's a bad thing that have happened as a result of that. Mr. Prentiss went on to say as far as a study is concerned he prepared a brief two-page report attached to the proposal and was also published in the Honolulu Advertiser in December 2005 and essentially the things in the report would be heard in the meeting today.

Richard Port testified in support. He stated he is the former Chairman of the Democratic Party and was present in the 1992 meeting in which the Democratic Party decided to support what they are now before the Commission asking the Commission to bring to the public's attention to change. Mr. Port went on to read his written testimony into the record. He went on to say their concern is not because it's hurting the Democratic Party in elections as 8 of the 9 Councilmembers are Democratic and they are not coming before the Commission as a self serving sense, but only because it's leading to voter apathy. Commissioner Lendio clarified she wasn't meaning to imply it was solely a Democratic party issue but she wanted to know if there were any type of study or data to back up the premise of what they are saying there is a disconnect in the non-partisan elections and if they have done and informal polling within their party. She also would like to know how strongly it is throughout the island and whether or not they have looked at that. Mr. Port responded there hasn't been any polling that he's aware of but there has been a feeling among members that it's not producing the effect they have anticipated and have been depressing rather than encouraging turnout. He went on to say when looking at the word partisan and non-partisan, non-partisan is what most want but when looking at what we are dealing with, it's not working and we need to go back to partisan elections. Commissioner Lendio stated the Democratic Party supported non-partisan elections back in 1992 and there was an overwhelming mandate back then, but are now asking the Commissioners to overturn that mandate and put it back to the voters and have them vote again on this issue. Commissioner Lendio went on to say she is asking whether or not there is any real data to back up the conclusion he has testified because for herself as a Commissioner she looks at the history, respects the history especially when it was overwhelmingly voted for and unless there is something compelling for them to have this on the ballot, this is her concern. Mr. Port responded his view on the proposal is have this proposal voted by the public and see what the public reaction to it and thinks a different view will emerge through public testimony. Commissioner Chang asked Mr. Port what was the rationale then that was used to justify non-partisan elections. Mr. Port responded the most common rationale that he's heard on the issue is there are no such things as Democratic sewers or Republican sewers, which is a cliché

and makes sense superficially. He went on to say he thinks a lot of the impact especially when talking about the 72% vote, played a role in it. He stated it hasn't produced what they anticipated. Commissioner Chang followed by asking, it's now felt that because it's non-partisan, it has had effect of inducing voter apathy or there's a low turn out, but he doesn't understand given that elections for city officials are the same time as state officials are up for election and those are on a partisan basis, how do they account for the apathy for those instances when state officials are from a two party system? Mr. Port responded the apathy is only one of the issues. He goes on to say he thinks part of it also is what he testified in terms of what does a party stand for, what is the platform, what are the priorities. Mr. Port stated engaging people in looking at what kind of issues should be brought forward, then there is a bit of an agreement as to the issues. Commissioner Grau stated he recalls when this issue came up before there was an issue of a popular but perhaps he characterized a maverick politician who ran for one party but didn't get the result they wanted, they switched parties. Commissioner Grau asked Mr. Port if he was correct on his recollection? Mr. Port responded he know who and the issue Commissioner Grau is referring to, uncertain if that was part of the issue but he doesn't recall that as being part of it. Commissioner Grau stated it's been awhile, but it seems to him that when he was voting that was one of the issues that were brought up as a reason for voting for a non-partisan election. Commissioner Grau goes on to say he's in the same position as Commissioner Lendio and to put something on the ballot and ask the public to vote on an issue again for something that they have overwhelmingly supported before, there are a number of important issues the Commissioners need to have decided and practically there are going to be a limited number of initiative they will put on the ballot. Commissioner Grau stated for him to vote in favor is he would need to have a compelling reason to do so. Mr. Port responded he thinks there was more than 72% of the people in the Democratic Party were for this at that time but it doesn't seem to be working and he thinks they'll get a different vote this time. Commissioner Lendio asked if Mr. Port knows why the Prosecuting Attorney is excluded from the Partisan policy? Mr. Port responded he doesn't know. Commissioner Coffee asked Mr. Port what effect did he anticipate? As he stated earlier they supported the non-partisan election before but it did not have the effect they anticipated. Mr. Port responded they may have believed the business of no Democratic or Republican sewers before, but now there would be no harm in having partisan elections.

(COMMISSIONER MIKULINA ARRIVED)

Jimmy Toyama testified in support. He stated he thinks this an important question that should be moved forward for further discussion in the community. Mr. Toyama stated great political experiments like non-partisan elections or non-partisan offices should from time to time be re-examined by the public and this process creates a tremendous opportunity for them to hear from the public and

ought to go out and gather more testimony from the public on this basic question. He went on to say as the County Chair of the party, his role is talk to people at the grassroots level. He stated he has talked to small groups across this island, invariably when they talking about politics, it always comes down to what values are important to them. Mr. Toyama stated when talking about politics, he thinks they are talking about values. He goes on to say when you say non-partisan, the question is what values should guide policy. He thinks political parties, regardless which party they are from, one of the valuable services is to serve this democracy. Mr. Toyama stated it helps people, ordinary citizens to ban together to talk about what's important to them in terms of values. He went on to say when elected officials representing a party goes to that decision-making circle called the City Council, Legislature or Congress, they are taking with them an informed opinion from the citizens with respect to what is important to them with respect to values and guides them in terms of policy. Mr. Toyama stated we cannot deny the fact that policy questions are informed by constituent values. He urged the Commissioners to give the citizens the opportunity to talk about non-partisan elections. Commissioner Sullivan asked Mr. Toyama if the written testimony they received from the Oahu County Committee, Democratic Party? Mr. Toyama responded it is submitted by the County-at-large that voted to move the written testimony forward. Commissioner Sullivan followed by asking Mr. Toyama if he could elaborate on his written testimony particularly on his statement relating to in a non-partisan election a candidate is more susceptible to special interest campaign financing. Mr. Toyama responded he's not sure how to enforce to that idea but feels it's important and so it was expressed in the paper. He goes on to say if you look at politics nationally, one of the big question is how do you get money out of politics? Mr. Toyama stated currently at the Legislature there is a bill dealing with public financing of elections but the link between elected officials and money needs to be broken somehow. He goes on to say, talking about voter apathy, people feel powerless because they think money makes all the difference in the world in respect of making decisions on important matters. He noted today the whole question about the state of our democracy is in question. He went on to say if there are any compelling reasons about the question to seeing excitement in the electoral process to bring back the idea about entitlement and democracy, he thinks it's time to think seriously about having the question out to the public again. Commissioner Hirano asked Mr. Toyama to comment on the fact that many people think of non-partisan elections as taking the politics out of the elections. Mr. Toyama responded on the conceptual level most people say whether you have an open discussion or non-partisan, people thinks it's okay. But when you get down and talk to people, they see that non-partisan doesn't really mean non-partisan.

Michael Abe testified in support. Mr. Abe stated non-partisan is not non political. He goes on to say some think that politics is a bad word and unfortunately people know politics and politicians as a bad word but it's not. Mr. Abe clarified that politics is about governance and viewpoints. He goes on to say party politics are

important because both major parties have encouraged to the two party system for good reasons because there's a clear distinction between the Democrats and Republicans on issues of taxes, social services, civil rights, environmental areas and many other concerns. Mr. Abe stated we cannot eliminate that from city government because city government is not simply about sewers and roads. He goes on to say it is about environment, housing, social services, and partisan political philosophies are involved in those decisions. Mr. Abe noted non-partisan does not mean non political, in fact, every single candidate who runs for the non-partisan office is a member of a party. Mr. Abe stated between 1992 until present several things have happened, they've seen a decline in voter participation and candidacy particularly in the recent years. He stated there's a sense of irrelevancy in respect to voters is that government doesn't listen, parties don't listen, parties lost their influence in the process if they will non-partisan races. Mr. Abe noted on a personal level, he was a candidate for City Council four years ago. He ran as Democrat in a non-partisan race, which meant when running in a Council race you're running in a district that contains 6 house districts. Mr. Abe stated the estimated budget for a campaign of that size is \$240,000. If running a partisan primary, you could reduce your cost because you can target your Democratic or Republican base and speak to your constituency and don't have to run a broad based general campaign in the primary. He went on to say if he is trying to raise \$250,000 for a Council race, who is he going to get it from? If he is running a cheaper race in the primary, he's less influenced by that or tempted by those types of money. Mr. Abe stated partisan campaigns can reduce cost and encourage a greater number of participants with a cost lower end. Commissioner Chang asked Mr. Abe off the top of his head, out of all the registered voters, how many are registered democrats, registered republicans and those who are independent? Mr. Abe responded there's probably less so but that's not an issue because it would be primary. Commissioner Chang asked if Mr. Abe knows what the numbers are? Mr. Abe responded he did not know the percentages.

Hal Barnes testified in opposition in moving proposal 6 nor 85 forward for further consideration. He noted in 1991 the testimony showed overwhelmingly that local governments were non-partisan in the United States. He goes on to say the reasons are simple. The local government provides those basic services – garbage collection, recreation opportunities, police and fire protection. Mr. Barnes stated they don't think political philosophy should dictate how those issues are decided. He goes on to say having to experience those issues firsthand, it's a lot more than overriding political philosophy that dictates what actions you often have to take. Mr. Barnes there is other considerations that would make this difficult to implement. Chair Takaki asked Mr. Barnes how would he see this proposal impact or affect campaign financing, whether returning to partisan elections or not? Mr. Barnes responded he thinks it could impact fundraising, not sure which way, who or which candidate. Mr. Barnes went on to say he doesn't think campaign financing or a candidate's ability to

raise funds is what the proposal is talking about. He stated they are talking about delivering the services and the philosophy behind that. Commissioner Sullivan asked Mr. Barnes to clarify what is different about the city that sets it apart to have it make sense at this level only? Mr. Barnes responded he could go into that and that would be the deal breaker but believes Council Chair Dela Cruz is a lot more current on those issues than he is. He stated he could discuss the financing issue and stated the current Mayor is known to be a member of a political party but his contributions came from across the political spectrum from members from both parties and members who have no affiliation. Commissioner Sullivan stated she was not asking about the financing issue but was asking about his testimony. Mr. Barnes stated the State Legislature and the Congress are not subject to Sunshine Laws. Commissioner Sullivan responded she doesn't understand Mr. Barnes last statement and what he is implying. Mr. Barnes responded how would you have a caucus, you can't go one to one to one, it would be impossible. He goes on to say how could you take your parties' philosophy and always being sure you are on the same channel with the party leaders. Commissioner Sullivan followed by asking if Mr. Barnes primary concern is Sunshine Law? Mr. Barnes responded that makes it as a practical concern. He goes on to say the primary concern is they don't believe political philosophy of a party should dictate what services and how services are provided to the taxpayers. Commissioner Sullivan stated she doesn't feel her questions have been answered but respects what Mr. Barnes is saying.

William Woods-Bateman testified in support. He highlighted his written testimony. Mr. Woods-Bateman stated the voter turnout has declined in almost every jurisdiction in the country in which non-partisan races have been included. He goes on to say there may be many factors but knows there is a correlation. Mr. Woods-Bateman thinks the time period from which they did this it may have been very popular. He noted that many times things happen in a very popular way and government has to be open to reviewing the alternative and changing when they seen consequences that were unintended as this may be. Mr. Woods-Bateman stated one of they things they have found out is when there is an uncontested partisan race and there are non-partisan race, the whole election goes down in that district and is really clear when they go out and participate. He went on to say they know when there is an uncontested party race they are going to have trouble in their non-partisan race and are not going to get people to go to the polls because it sets a standard for why some of the people go to vote. They know some general common elements of the voters. Mr. Woods-Bateman stated while the races for these positions are called non-partisan, almost all of the candidates here in Hawaii have been associated with political parties. He goes on to say while they were identified, the parties affiliated with their membership were and are hamstrung to hold them accountable to the values, ethics and good government practices held in the parties' highest esteem. Mr. Woods-Bateman continues to say when an errant public officials is in an non-partisan position the parties have little or no ability to hold them accountable, sanction them or remove

them from the party status which would be a basis for being ineligible for future political elections where there is party scrutiny for certification to be a candidate. He noted this is very relevant, because everyone has been saying the Democratic Party did not kick out Rene Mansho. He stated they could not do it because it was a non-partisan situation and are limited to what they can do as a party. He thinks it's true for the Republican Party as well. Mr. Woods-Bateman stated by being a party affiliate, they are allowing public more information to make a decision and not limiting to the financing and their public media attention. Commissioner Grau stated he comes from a background of science and has a problem with the idea that correlation implies causation especially since these elections are run at the same time as partisan elections are held. Commissioner Grau asked Mr. Woods-Bateman if he could respond to the idea, these elections are run at the same time as partisan elections are held, people are going interested in one party and the others would be voting in those elections, how would that preclude them from also taking the opportunity to vote in a non-partisan municipal election? Mr. Woods-Bateman responded he doesn't think anything precludes, but thinks the motivation to get out and to vote is stimulated when there are people saying this person has this block of values that they may be because of their party affiliation and if I support those values I get out and vote for them. He noted this would increase the numbers in this case special elections or what is usually called the primary election. Mr. Woods-Bateman went on to say what he thinks Commissioner Grau is saying is that if people do things at different times and think non-partisan sounds very good, can't have a forum and necessarily convey a message if you are limited to two or three things the candidate themselves are going to put out, the people on Hawaii can't go to all the events in which all the candidates participate. He went on to say if they get a general category such as the party they are affiliated with, they can ask very specific questions i.e., "How is that going to impact their decision on the City Council?" He stated because there are not three issues on the City Council but hundreds of issues on the City Council and voters have been misled to think a non-partisan person is somehow neutral, but they are not. Mr. Woods-Bateman went on to say they have those concepts and directions built into their system when they are elected and won't get to know much about them if they don't allow for partisanship. Commissioner Grau stated his question is not based on those presumptions Mr. Woods-Bateman stated. Commissioner Grau went on to say he belongs to a party and has certain values that closely correlate with the party he's a member of. Commissioner Grau went on to say for him to vote for this, the proposal needs to rise to a level of importance that is critical that the Commission change it and that is what he trying to get at. Commissioner Grau went on to say he can see certain reasons why party based elections would be positive and an opportunity for a party to run young people that may later run for state office or perhaps beyond but is not hearing the types of things that would have Commissioner Grau agree that is something that has to be on the ballot. Mr. Woods-Bateman responded he understands Commissioner Grau's concerns and does not have all the hard numbers that Commissioner Grau would like. Mr.

Woods-Bateman went on to say he has additional perspective but he thinks for public review, it is an issue that is current and people are changing their position across the country.

Council Chair Donovan Dela Cruz brought up practical issues; at the State Legislature they have the House Majority and the House Minority, and the Senate Majority and the Senate Minority Office. At the City Council there is only the Office of Council Services, which serves all nine members. Council Chair Dela Cruz went on to say they don't have caucuses as the Sunshine Law doesn't allow a Democratic Party Caucus or a Republican Party Caucus. He went on to say they do not have those tools to allow them to really make partisan elections work the way they are meant to do. Council Chair Dela Cruz stated they would essentially be having what they have now which is one Office of Council Services and the Democrats and the Republicans would still not be able to caucus and does not know how they would get around that.

Councilmember Charles Djou testified in opposition 6 and 85. Councilmember Djou echoed the comments made by Council Chair Dela Cruz. Councilmember Djou went on to say with the theory of municipal government, a lot of municipal governments around the nation which have gone through non-partisan procedures on the theory that there is not really a Republican way or a Democratic way of running a sewer system or picking up garbage or putting in a stoplight which are the heart and soul of what they do at city government. He went on to say that is not all they do at city government but thinks there is a clear distinction between the state and federal government offices where in which they argue and debate about political philosophy and the theory of operations of government and maybe perhaps they are very clear ideological differences in operating the United States Congress or the State Legislature. Councilmember Djou went on to say that in a municipal government where it is a lot of day to day operations of government and providing good government, good government services that do not have necessarily the need for the partnership that he thinks exists at the Federal and at the State level. Commissioner Chang asked Councilmember Djou assuming he was a Republican politician, how would he respond to party direction versus what he believes and how would he get a sense as to where his constituency is coming from relative to what they would ask him to do on their behalf and how do you balance? Councilmember Djou responded he thinks any elected official, City Councilman or State Legislator or a member of Congress, gets a sense of their constituency in their own ways. Councilmember Djou went on to say may it be through doing polling, a series of community meetings or what he often finds is what he calls his informal "Longs Drugs poll" where he gets lots of comments on something which is usually a good indication of how the public feels on a particular matter. He went on to say in terms of relationship with party leadership, he thinks it may apply more at the Federal and at the State level especially when they have very large legislative bodies. Partisanship is a good and very quick way of organizing that legislative

body, the U.S. Congress has 435 members of the U.S. House and 100 State House with 51 House member or 25 Senate members. Councilmember Djou goes on to say with an organization such as the Honolulu City Council which only has 9, members of the City Council is such a small body, he thinks institutional organization isn't as vicarious and the need for party leadership to try and organize that organization doesn't think bears out as strongly. Councilmember Djou stated he thinks that a lot of municipal governments have gone toward the municipal non-partisan elections, a need that has been the trend in Hawaii as Honolulu was the first but subsequently all the other counties have gone through non-partisan elections. Commissioner Mikulina asked both Council Chair Dela Cruz or Councilmember Djou to respond. If either of them were members of the Green Party, hearing from some the proponents of the proposal, as a non-partisan they might run a two or three issue campaign but the rest of their slate might be unknown to voters, how would they respond to that? Commissioner Mikulina goes on to ask if voters are in the dark when they are voting for them? Commissioner Mikulina commented that Councilmember Djou came with his slate of votes from the Legislature and those voters knew where he was coming from and the wide range of issues but someone new and just ran with two or three issues, would he agree with that or does the voters have a good feel of who they are? Council Chair Dela Cruz responded when he was running for the City Council, he had a number of Community debates, went to every Neighborhood Board, different Community Associations and they asked about more than three issues. Chair Dela Cruz went on to say he responded on anything they asked that the city has jurisdiction over and how he would proceed. Chair Dela Cruz commented he thinks the voters are more than just that and if a poll was taken from 10 different voters, not all of them would have the same top three on their list. Councilmember Djou also responded to Commissioner Mikulina's question. Councilmember Djou stated he thinks it's unique for the City and County of Honolulu, he thinks the general theory of American Federalism, generally speaking there are Congressman or United State Senators representing very big districts that handle national issues, State Legislators represent slightly smaller districts and handle statewide issues and usually in most of the other parts of the United States and pretty much all of the parts of the State of Hawaii the municipal offices represent the smaller districts handling the most narrow localized issues. Councilmember Djou went on to say with that theory American Federalism works with non-partisan elections at the municipal level because they are supposed to be handling the most narrow based issues like making sure the pot hole in front of my home is fixed, my garbage gets picked up in front of my household versus larger, broader and more theoretical policy issues handled at the State and Federal level. Councilmember Djou stated it is unique for the island of Oahu where the Honolulu City Council's districts are five times the size of the State House District and two and a half times the size of the State Senate district. Commissioner Coffee asked both Councilmembers how do they respond to the previous testimony that indicated non-partisan elections statistically have increased non-participation and apathy in the process. Councilmember Djou

responded he acknowledged in a partisan election, if a voter knows absolutely nothing else about a particular candidate running for office and all they see is “D” or an “R” or “G” after the name, it gives a little more information to the voters that they otherwise would not have. Councilmember Djou went on to say it is impossible to devise a perfect election system. He goes on to say in an ideal world, yes, he would like see 100% voter participation from every single eligible voter out there but the reality he doesn’t think we would get that. Consequently the question we have to ask is what is the superior system of government that we would like to have. Councilmember Djou went on to say that at the municipal level, the non-partisan system works and he thinks it has worked in Honolulu, other neighbor islands and other jurisdictions in the United States and thinks if there is a decrease in voter participation rate he think it’s partially to blame of the electorate not getting involved perhaps as they should be and also the fault of elected officials not getting out and interacting with their constituents as much as they should. Council Chair Dela Cruz also responded to Commissioner Coffee’s question. Council Chair Dela Cruz stated in general it’s civic responsibility and you see apathy across the Community such as Lion Clubs, church organizations and voting. He goes on to say he doesn’t think people have to be partisan to be active in any civic organization. He also stated apathy seems to be unfortunately the norm and doesn’t think it’s based on if you are a Democrat or a Republican or neither or a Green party member. Commissioner Sullivan stated she doesn’t view municipal government as being different than State or Federal Government, it is what it is today. Commissioner Sullivan stated in the Federal Constitution it would be unconstitutional to institute non-partisan elections at a federal level and with that line of thinking she is trying to reconcile in her mind what is it that is special about municipal government that makes this a smart thing to do. Commissioner Sullivan stated she can see what the city has evolved to do over time and doesn’t need a political platform to provide basic services. She goes on to say at one the City did commit much more to affordable housing, homelessness, social services, to things the city does not really do anymore and she is not blaming this on non-partisan elections but her point is that she still does not understand the distinction why municipal government is different and why the democracy review of things should be different at this level. Council Chair Dela Cruz responded despite what the Commission does, they have to keep in mind that caucusing would not be allowed, they would not have majority and minority research offices or drafting offices. He went on to say if they look at this as a practical standpoint of the resources the city has and what is in place and the rules put on the City Council by the State Legislature, they would not be able to function in a normal caucus because it’s not allowed. Councilmember Djou also responded to Commissioner Sullivan’s question. Councilmember Djou stated he doesn’t believe that ideology is not important at the municipal level and plays a part in his decision-making. He goes on to say and thinks Council Chair Dela Cruz would agree that political philosophy is important at municipal government as it is at other levels of government. Councilmember Djou went on to say he thinks the difference is what your government does and whether or not

the ideology is not of primary importance. He provided some background information for non-partisan elections. Councilmember Djou stated the late U.S. Senator George Norris from Nebraska was a long time proponent during the turn of the 20th century for non-partisan elections and wanted to make non-partisan elections at all levels of government, municipal, state and federal, but was only successful doing it at the municipal level. In his home state of Nebraska where they are the only state in the union, they have a Unicameral Legislature and there is a non-partisan legislature. Councilmember Djou went on to say Senator Norris argued the reason it is important more at the local level is because he felt that is where democratic participation is most important and it should be the most personal versus at the National level where they are talking about high principles and policies and negotiating with foreign countries and whether we should go to war, what the currency should be type of issues. Councilmember Djou stated he agrees with Senator Norris's argument that at the very most local level, you'd want to be as inclusive as possible that rather than have ideology drive a lot of what you government is you'd want every citizen to participate, have their ideas, have their say and yes whether it's having their garbage being picked up or their pot hole being filled or whether their sewer line is broken or not, that 's the heart of municipal government. He goes on to say Senator Norris argued and he is in agreement with him that consequently perhaps the non-partisan form of government works better at the municipal level and it might be inappropriate at the federal level or the state level. Commissioner Sullivan clarified that Senator Norris argued at all levels of government. Councilmember Djou responded in the affirmative but stated he would not agree with the late Senator Norris to argue for this at the federal level because he thinks at the federal level you could make a very good argument that the issues to which the United States Congress and the President of the United States deals with is very ideological and goes to the heart of political philosophy and theory of operation of government. He went on to say consequently he thinks party elections are very appropriate at the federal level but perhaps not so much as the municipal level of government. Commissioner Kawashima asked Councilmember Djou as a follow-up to his recent statement of being as inclusive as possible, asked Councilmember Djou to comment on the overwhelming response wanting non-partisan elections and there were some comments made in previous testimony that enough time has passed and to have this go before the public and hear what the public has to say. Councilmember Djou responded he has not heard criticisms from his constituents relating to the non-partisan structure of Honolulu municipal government. He went on to say he has not heard complaints from the political party which he is a member of also. Consequently he does not see this as a big problem and have not perceived this to be a big problem as a Councilman talking to his constituents. Consequently in his opinion this is not one of the hot topics that the Commission can bring to the voters towards the top of the list.

Shannon Wood testified in support. She stated she is ambivalent about the proposal. Ms. Wood states she believes non-partisan elections at the County

level would work and do work as people have stated there is no such thing as a Republican pothole or Democratic sewer. She goes on to say in Hawaii the two parties' umbrella is huge and you can have two people under the same umbrella who have very different opinions and some times it is very difficult for accountability. Ms. Wood urges the Commission to move this proposal on for further discussion given the wide variety of input from both elected officials as well as community activists.

3. **PROPOSAL 85** - Elections; Restore partisan elections for the offices of Mayor and Councilmembers.

The following individuals testified:

1. Tom Heinrich
2. William Woods-Bateman
3. Richard Port, Oahu County Committee Democratic Party of Hawaii
4. Jimmy Toyama, Oahu County Committee Democratic Party of Hawaii

Written testimony:

1. Lynne Matusow
2. William Woods-Bateman (Support)
3. Donovan Dela Cruz, Council Chair, Honolulu City Council (Oppose)
4. Shannon Wood
5. Wayne Hashiro, Acting Managing Director

Tom Heinrich testified in support. Mr. Heinrich stated the Prosecuting Attorney position should remain non-partisan because the role of the Prosecuting Attorney is best kept independent of party politics as well as that position that should not be appointed by the Mayor, that was a decision that was made earlier by the electorate. He goes on to say one of the main keys is a lot of the discussion goes to issues of vision, of policy, of political philosophy. Mr. Heinrich continued to say not just providing good government services which would not be the basis for much of an argument which he feels we all support that but also stated we also support having as much information as possible about the various choices of candidates. He notes the Councilmembers' testimony relating to the late Senator Norris, it's a matter that if inclusively is the goal then inclusively for everyone is also going to be based on making choices and making those choices in reliance on as much information as possible and party membership or party platform information is part of that information. Mr. Heinrich stated he thinks it's disingenuous that somehow if someone is a non-partisan candidate they are fresh, they are unblemished in whatever way by being a party member. As stated by others earlier, almost every single candidate for whatever office usually has already a proven candidacy record and the public knows who they are and what their background is. Mr. Heinrich encouraged that this move forward for further discussion. He also stated to focus on the principle, and that issues

relating to the sunshine laws and caucusing would follow, and those are things that could be handled separately but to focus on the principle of whether these offices should be partisan or non-partisan elections.

William Woods-Bateman testified in support. He continued with his written testimony for Proposal 6. Mr. Woods-Bateman stated the issue he is talking about is the voters and the accountability and the ability for them to have information in order to make a decision and the numbers of who are going out and why they are going out or why they are not going. Mr. Woods-Bateman continued with his statement relating to party affiliation, there are a lot of other issues that people might attach themselves to because they are a party affiliate. He goes on to say with regard to party affiliation is they maintain a requirement that all candidates running to review each platform and resolution issue and state their support or opposition to the party position. Party members can make a decision on who they support and they can differentiate one candidate from another. He stated this would not happen for non-partisan races. Mr. Woods-Bateman went on to say this has allowed them to make better and informed decisions. He stated the more knowledge the voter has on all candidates, the more ability they would have in making their choice for election. Mr. Woods-Bateman stated that knowledge paired with party membership standards also is a major basis to establish and assure accountability where little is known about a candidate. He urged to move this proposal to the hearing process. Commissioner Lendio asked Mr. Woods-Bateman doesn't this prevents any candidate from declaring their alliance or allegiance to any party? Mr. Woods-Bateman responded no. Commissioner Lendio went on to say a candidate can loud and proud say they are Democratic or Republican if running even in a non-partisan race. Mr. Woods-Bateman responded in the affirmative. He went on to however the party cannot review them on that basis nor can they speak out or address that as party members. Commissioner Lendio stated her understanding from Mr. Port's testimony is that their political party is having a hard time finding candidates now. She went on to say it's discouraging people from coming out into a non-partisan venue, you want to be part of the party, you want to be supported by the party, you want to be able to have people support you through the election process especially when they are a new candidate. Commissioner Lendio stated this may even act as a deterrent to new candidates to be able to have to say this but they can exercise their first amendment right anyway and declare their party allegiance and have the support of the party if they want to even though it's a non-partisan race. Mr. Woods-Bateman responded the support of the party is questionable and questions themselves if they can endorse in that party. He stated she made an assumption that people are filing to run by a party definition because they are going to get support. Mr. Woods-Bateman stated he doesn't think that's the primary reason a candidate runs under a party platform. He went on to say they support a platform a set of values, which may garner them some support, but that is not necessarily the reason they run. Commissioner Lendio clarified that Mr. Woods-Bateman is

telling her that the party does not recruit candidates and say if you run, we'll support you? Mr. Woods-Bateman responded he thinks some people do that and that's not necessarily mean they are the chosen one. He went on to say they encourage a lot of people to run and they like contested races. Commissioner Lendio stated if a candidate declares "D" you are going to support them by the party if they declare "D", you are going to put your support behind them because they have adopted your platform, your morals, your values and thinks it's just part of the political process. Mr. Woods-Bateman stated he understands that perception, the word supportive is more profound than what he thinks he does as an individual. He goes on to say the support means that they support that they are in the race, they are in the primary and they have a policy of not opposing them but that doesn't mean they support each candidate. Commissioner Lendio clarified her point is you can declare yourself as a Democrat, so she doesn't think being in a non-partisan race really affects how they declare their party affiliation. Commissioner Pacopac asked Mr. Woods-Bateman in respect to the last statement made by Commissioner Lendio, can the Democratic party endorse a non-partisan candidate? Mr. Woods-Bateman responded theoretically. Mr. Woods-Bateman went on to say it's generally in the discussions he's had, it's not encouraged. Commissioner Pacopac asked for a response from someone of the Democratic party that was present. Mr. Toyama responded yes they can. Mr. Toyama goes on to say generally speaking not in the primary but the general election they do.

Mr. Richard Port testified in support. Mr. Port addressed Commissioner Grau's statement made earlier regarding having to make priorities and can't put everything on the ballot. Mr. Port stated there is nothing more central to the Charter than how elections are held. He goes on to say this ought to be given high priority in terms of the fact that it does involve what they all hope is the center to democracy of our election. Mr. Port addressed Commissioner Sullivan's questions which have come up several ways, values do count. He clarified even though there is a broad definition of Republican or Democrat, people do get some idea of a person's values depending what their party affiliation is. Mr. Port stated their problem is not finding candidates, in fact in many cases he's seen as many as 16 or 18 candidates on the ballot and knows they don't have trouble getting candidates but getting people to come out and vote and believes this change would help them. Commissioner Grau stated he's had the experience when he was at the University of California he was living in Berkeley which elected a communist which it turned out they still had to share public safety, collect trash and worry about the sewers. Commissioner Grau goes on to say he might have thought it would have made a profound difference in his one and only experience having a communist government but it really didn't and stated he is still stuck with the idea of does this proposal need to be placed on the ballot again before the voters. Especially when he hears Democrats, Republicans alike disagreeing with the position Mr. Port has just avowed. Mr. Port responded he is looking at the two examples, the Minnesota

Governor who was a wrestler and the California Governor and not sure if it is working out very well with not having a partisan election, in case of Minnesota was clear it didn't work out very well. He goes on to say he can only give his opinion, based on his experience and the fact whatever his party affiliation has always dealt with issues that have always represented public good. Mr. Port stated he cares about democratic values but cares about the public and the citizens above all and does really think this merits going on to the ballot.

Jimmy Toyama pointed out Council Chair's testimony that political philosophy and ideology is very important to him because it give him guidance in terms of how he addresses things. Mr. Toyama stated the point he's making is that they cannot deny at a fundamental level that those things are at play, but if they are than he thinks going back to partisan elections may be very appropriate.

Chair Takaki asked to take a five-minute recess. Commissioner Hirano moved to take a five-minute recess, Commissioner Lendio seconded the motion. There were no objections.

Commission recessed at 3:35 p.m.

Reconvened at 3:45 p.m.

4. **PROPOSAL 39** - Charter Amendment Process; Require two-thirds rather than majority voter approval for amendments/revisions to charter.

The following individuals testified:

1. Tom Heinrich
2. William Woods-Bateman
3. Shannon Wood
4. Peter Carlisle, Prosecuting Attorney, City and County of Honolulu

Written testimony:

1. William Woods-Bateman
2. Shannon Wood

Tom Heinrich testified in opposition. He stated this proposal would make things difficult to do anything the Charter Commission and the other City electorate need to consider in dealing with the Charter and making changes when appropriate, etc. He urged the Commission not to move this forward for further public hearing. Commissioner Mikulina asked Mr. Heinrich if he knew the percentage of issues passed that were greater than 2/3rds vote and how many were short of that vote during the past two Charter Commissions? Mr. Heinrich responded he was unable to answer that question. He goes on to say the majority of the focus has been on the State Constitution issues in which there is

the issues of blank ballots are counted as no votes. Mr. Heinrich stated he thinks the principle is as a political situation there are very few things that require a supermajority of whatever type. He goes on to say if it's democracy it's the rule of the majority hopefully they all respect as well to minority rules, it's a matter if you have 50 plus 1% then that is how that issue is decided at that time or do they go back to revisit some other time.

William Woods-Bateman testified in support. Mr. Woods-Bateman highlighted his written testimony. He stated his concern is the U. S. Government is based on a supermajority and the Constitution is established to have a democracy with the representative government and that we protect the minority from tyranny of a majority. He went on to say the U.S. Constitution has a supermajority in terms of it's concept and what it's trying to protect and that we put in hard fast long range policy concepts on how to run the government. Mr. Woods-Bateman stated that has been so of all the rights and benefits that we have had as states and counties. He goes on to say they have a supermajority for Congress to act to put amendment on the ballot. Mr. Woods-Bateman stated he realizes Hawaii doesn't do that and one of the discussions that has been going on about the Charter Commission of how so many things got put into the Charter, some are really Ordinance based and not Amendment based. He goes on to say because it was so easy to do and the development of the Charter wasn't scrutinized the development and concept of the Charter which establishes policy versus other things which are rules that need to be changed from time to time or more often. Mr. Woods-Bateman stated he sees the Charter potentially as the permanent document and realize there is the option of amending it but thinks there should be the concept that a super-majority should be needed to change something that is primary as the policy for running all of the government operations.

Shannon Wood testified in support. Ms. Wood stated she concurs with Mr. Woods-Bateman. She urged the Commission to move this proposal for further discussion. Ms. Wood stated this is a core value and not an ordinance based of proposition but something that deals with the fundamentals of how we are structured and the Charter is our Constitution.

Peter Carlisle testified this proposal is simply an effort to maintain the status quo. He goes on to say he would like for his one vote for "yes" to count exactly the same as Mr. Woods vote for "no", one person one vote.

Chair Takaki asked the Commission Parliamentarian Commissioner Lendio, some of the Commissioners asked Researcher Nicole Love for more information of this proposal. He goes on to say he doesn't think it is available by handout but would like her to comment on their request. Commissioner Lendio responded "yes". She also stated Mr. Glen Takahashi of the City Clerk's Office is also present at the meeting should the Commission have questions with regards to the results of the last vote. Chair Takaki clarified the question is regarding what

Commissioner Mikulina asked earlier and as he asked the Commission Research and as any Commission can ask Researcher Nicole Love to get information on the proposals.

Nikki Love, Researcher for the Charter Commission noted assuming the process stays the same in terms of excluding the blank votes, looking back to a couple of the previous elections; In 2004 general election three of four Charter Amendments with this proposed amendment requirement of 2/3rds only two would have passed, in 2002 one passed which was the City Auditor and with the requirement that would have passed and would have stayed the same, in 1998 seven of eight amendments have passed with the proposed amendment requirement only five would have passed, in 1992 of the 32 proposals 27 have passed if this requirement was in place only 15 would have passed. Chair Takaki stated it does make a significant difference. Commissioner Lendio asked Researcher Nicole Love, she may not know the answer or Mr. Takahashi might, in the 1992 election where they had 36 amendments did it matter where the proposal was in terms of the listing? She went on to say Mr. Takahashi made a presentation at their previous meeting indicating that there was a decrease as you went along the list of proposals and did the actual majority voting have any impact on how they passed on where they were placed on the ballot. Ms. Love stated she doesn't know off hand because the list she has may have not matched the actual ballot. Commissioner Lendio asked Mr. Takahashi if he knew the answer. Mr. Takahashi he does not know that off hand. Chair Takaki stated if this proposal proceeds we could further look into the matter.

5. **PROPOSAL 87** - Elections; Instant runoff voting for city elections.

The following individuals testified:

1. Tom Heinrich

Written testimony:

1. David Moon, Program Director, FairVote – The Center for Voting and Democracy (Support)
2. Donovan Dela Cruz, Council Chair, Honolulu City Council
3. Shannon Wood

Mr. Heinrich testified in opposition. He strongly recommends this proposal not move forward for further consideration.

ACTION:

A. RELATING TO THE ELECTIONS PROCESS

1. **PROPOSAL 5** - Elections; Eliminate the first special election when there are only two candidates for an office.

ACTION – Proposal 5 to move on for further consideration – motion passed. Moved by Commissioner Lendio, seconded by Commissioner Pacopac. No discussion followed.

AYES: COFFEE, GRAU, KAWASHIMA, LENDIO, MEDER, SULLIVAN - 6
ABSTAIN: MIKULINA - 1
NOES: TAKAKI, CHANG, HIRANO, PACOPAC - 4
EXCUSED: MYERS, TOM - 2

2. **PROPOSAL 6** - Elections; Return to partisan elections for the Mayor and City Council.

ACTION – Proposal 6 to move on for further consideration – motion failed. Moved by Commissioner Lendio, seconded by Commissioner Pacopac. Discussion followed.

Commissioner Lendio stated although in the final outcome, she's not hearing a compelling reason to put this on the ballot she will vote to put this on the ballot. She stated she would like to see data and evidence or more public testimony with regards to this particular proposal. Commissioner Lendio stated her concern about the mandate in 1992 and what people have indicated with the 72% vote to make this non-partisan as well as her concerns about the practicality implementation of such a system at the city government level but would like to hear if there is any evidence that could be compelling to put this on.

Commissioner Meder stated he was less convinced and more disturbed with the arguments going on than expected. He went on to say a few of the things embedded in the discussion the idea especially in today's world that the strength for democracy is based on the monolithic nature of two central parties and could be argued that other valid voices would actually strengthen the democracy and they should be allowed to have a voice. Commissioner Meder went on to say there's also the issue of value that seems implied by most of the testifiers that if you didn't have a party affiliation you would be voting for a political value and stated it's not accurate nor democratic. He stated the other argument about the money that it would be less expensive to have a campaign affiliated with a party seemed to be an argument for less obligation later to a matter of degree. Commissioner Meder stated his concern about defusing the attention span of voters by having too many points out there especially since this had an overwhelming response in 1992. He goes on to say considering all of that he feels this is critical enough to have the voters decide and the issue on how the

elections are run for the City should be further discussed and he will be voting to advance the proposal for further public input.

Commissioner Coffee stated he has mixed emotions about this proposal. He goes on to say the city and nation are politically polarized right now and he feels inclined to go with something that is less polarizing and more non-political elections may tend to reduce that and he realizes there can be arguments in both ways. Commissioner Coffee stated he's inclined to consider the less polarization we have the less partisanship we have it would all be part of our political community that that's a value and also thinks this proposal should go forward.

Commissioner Hirano stated she feels there has not been an overwhelming mandate from the Community or the constituency at large for a charter amendment as proposed. She goes on to say it's only been 12 years since having the last Charter Amendment for the non-partisan election and doesn't think we need to put this on the ballot to confuse the public and will be voting against the proposal.

Commissioner Grau stated he has not found a compelling reason to move this proposal forward and view of the strong statement from the electorate 12 years ago. He went on to say he has not found anything to change his mind and would be voting against the proposal.

AYES: COFFEE, LENDIO, MEDER, MIKULINA, SULLIVAN - 5
NOES: TAKAKI, CHANG, GRAU, HIRANO, KAWASHIMA, PACOPAC - 6
EXCUSED: MYERS, TOM - 2

3. **PROPOSAL 85** - Elections; Restore partisan elections for the offices of Mayor and Councilmembers.

ACTION – Proposal 85 to move on for further consideration – motion failed.
Moved by Commissioner Lendio, seconded by Commissioner Pacopac. No discussion followed.

AYES: COFFEE, LENDIO, MEDER, MIKULINA, SULLIVAN - 5
NOES: TAKAKI, CHANG, GRAU, HIRANO, KAWASHIMA, PACOPAC - 6
EXCUSED: MYERS, TOM – 2

4. **PROPOSAL 39** - Charter Amendment Process; Require two-thirds rather than majority voter approval for amendments/revisions to charter.

ACTION – Proposal 39 to move on for further consideration – motion failed.

Moved by Commissioner Lendio, seconded by Commissioner Pacopac.
Discussion followed.

Chair Takaki stated he would be voting against this proposal. Commissioner Coffee stated he was impressed with the results of the research because it didn't have much of an impact as he thought it would have and will be voting to move this proposal forward.

AYES: COFFEE, SULLIVAN - 2
NOES: TAKAKI, CHANG, GRAU, HIRANO, KAWASHIMA, LENDIO,
MEDER, MIKULINA, PACOPAC - 9
EXCUSED: MYERS, TOM – 2

5. **PROPOSAL 87** - Elections; Instant runoff voting for city elections.

ACTION – Proposal 87 to move on for further consideration – motion failed.

Moved by Commissioner Lendio, seconded by Commissioner Pacopac.
Discussion followed.

DISCUSSION:

Commissioner Lendio stated she would be voting against this proposal. She goes on to say the proposal is untested and there is no data with regards to how it worked in San Francisco and Maryland and the cost of the implementation they anticipated result what she expect, it's illegal and there is a State Constitution.

Commissioner Mikulina stated despite there might be an illegality issue he feels this proposal should be further discussed.

AYES: MIKULINA - 1
NOES: TAKAKI, CHANG, COFFEE, GRAU, HIRANO, KAWASHIMA,
LENDIO, MEDER, PACOPAC, SULLIVAN - 10
EXCUSED: MEYERS, TOM – 2

******Commissioner Pacopac left at 4:10 p.m.******

B. RELATING TO OFFICES AND TERMS

1. **PROPOSAL 19** - Term Limits; Re term limits for the City Council.

The following individuals testified:

1. Tom Heinrich
2. Donovan Dela Cruz, Council Chair, Honolulu City Council
3. Stan Fichtman, Staff, Councilmember Charles Djou
4. Hal Barnes, Assistant to Mayor Hannemann

Written testimony:

1. Charles Djou, Councilmember, Honolulu City Council
2. Donovan Dela Cruz, Council Chair, Honolulu City Council
3. Wayne Hashiro, Acting Managing Director, City and County of Honolulu
4. Shannon Wood

Tom Heinrich testified in opposition to this proposal. He went on to say this issue he thinks this is a factor that was strongly supported by the electors. Mr. Heinrich stated there is not a similar proposal to remove term limits for Mayor and in that regard would like to treat all city elected officials in the same manner.

Council Chair Donovan Dela Cruz testified in support. He brought to the attention of the Commission the problems term limits and staggered terms have created. Council Chair Dela Cruz stated during the year of reapportionment only half of the Councilmembers would run for election. He stated the Charter currently specifically states you cannot unduly favor a person or political faction. When going through the reapportionment process, you are not able to see where the members live. They create 9 districts based on topography and existing organizational lines such as Neighborhood Boards or House Representative Districts to try and keep Community together in that way. Council Chair Dela Cruz went on to say in the year 2012 only one half of the Councilmembers run for election, during this same year all 25 Senators run. He stated this could create a number of problems; it could create a whole new district with no councilmember, or could have a district with two or three Councilmembers. He used the example of the district he represents which is from Kaneohe to Mililani Mauka which is a combination of two districts, Councilmember Marshall used to represent the North Shore to Waipahu and former Councilmembers Holmes who represented Kahuku to Kailua. Council Chair Dela Cruz went on to say this would create a number of problems with reapportionment, they could end up with a Councilmember they didn't vote for or the Councilmembers could be out districted of their own district. Commissioner Lendio asked Council Chair Dela Cruz when would the Reapportionment Commission convene? Council Chair Dela Cruz responded it is every year ending in "2", because the U.S. Census is the years ending in "0". He goes on to say previous to this, the reapportionment convened at the council "12 years", "8 years", "12 years", "8 years". In 1982 they waited the term out for another two years and that's when they drew the new lines. Commissioner Lendio asked Council Chair Dela Cruz this may be not appropriate to do before the reapportionment commission comes out with their reapportionment? Council Chair Dela Cruz responded they are not supposed to

look at political factions or where they live. Commissioner Lendio clarified it's done by census? Council Chair Dela Cruz responded it's done by census and topography and keep compact districts as much as they can. He goes on to say with the population growth on the Leeward side, in 2012 it's going to be a different district size. Commissioner Lendio asked Council Chair Dela Cruz if he has considered three term limits instead of two? Council Chair Dela Cruz responded he feels four-year terms are essential because the types of issues the Council takes are controversial that you would end up having members playing it safe because their election would be next year. He goes on to say to do what the Senate is doing, having a two-year term within the 10 years makes it difficult. Council Chair Dela Cruz stated the types of issues the Council faces are divisive issues. He goes on to say the Charter Commission in 1972, they intentionally tried to create a strong mayor strong council system. By reducing the terms limits from 4-year to 2-year he feels they are eroding that to some degree. Council Chair stated the average is about 12 years or three 4-year terms. He stated he thinks it should go back to un-staggered terms because it created a lot of problems and housekeeping problems. Council Chair Dela Cruz stated he spoke to Corporation Counsel Director Carrie Okinaga and stated if nothing is done it would create Constitutional problems in 2012 and the Charter Commission will not be back until 2016. Commissioner Lendio stated if it doesn't pass through this Charter Commission, the Council could create a charter amendment also. Commissioner Lendio stated if some Constituents are not represented by Councilmembers she thinks the council would have to pass a charter amendment at the time. Council Chair Dela Cruz stated if you go back to what the rule is and it was because of the term limits that created the staggered term, anything the Council passes would look self serving whatever the case may be, three four-year term, no term but he feels to let the electorate decide. He goes on to say they are going to have a problem that the Commission needs to figure out a solution and feels a two-year term would make it unstable. Commissioner Coffee clarified they are not talking about two or four-year terms? Council Chair Dela Cruz responded that he's saying for the Commission to come up with a solution. Chair Takaki responded they are talking about eliminating term limits. Commissioner Coffee clarified whether to extend the currently two-four year terms or eliminate them. He went on to clarify if this proposal goes into the charter and is approved by the voters, what would the resolution be? Council Chair Dela Cruz responded the Commission would have to look at the problem entirely and also the Commission would decide on how they would pose the question. He states the charter was specifically based on a strong mayor strong council system, if keeping staggered terms, they would have to look at how would the Commission allow all Council candidates to run during reapportionment. Commissioner Mikulina asked Council Chair Dela Cruz if that reapportionment issue was his only concern with term limits? Council Chair Dela Cruz responded philosophically he's opposed to term limits but feels it's for the electorate to decide. He goes on to say this is a pressing situation and stated there will be a big problem in 2012 if it is not fixed. Chair Takaki asked Council

Chair Dela Cruz to comment on the written testimony that philosophically thinks this proposal is a bad idea and is against the proposal forward. Council Chair Dela Cruz responded if the Commission leaves the current law as written in the current charter it would be irresponsible of the Commission because he stated everyone agrees in 2012 there is going to be a big problem and for the Commission not to fix the situation he thinks it's irresponsible. Commissioner Hirano stated to Council Chair Dela Cruz she thinks the voters should determine whether there should be a term limit or not. Council Chair Dela Cruz responded there are examples in the past where even without an election, five Councilmembers were removed, three Councilmember under Patsy Mink when she was recalled and Councilmembers Mirikitani and Mansho resigned before the terms ended and feels there's a system of checks and balances. Commissioner Sullivan asked Council Chair Dela Cruz to clarify the reapportionment he was referring to. Council Chair Dela Cruz stated reapportionment happened in 2002 and that's when all 9 members ran at the same time and there was no problem and unforeseen in the 2002 election. The problem is created in the 2012 election because of the staggered terms. He goes on to say if they look at the State Senate, all 25 of the districts run and they stagger their terms 4, 4, 2 or 2, 4, 4 but the big difference is they don't have term limits, all 25 run because of reapportionment. Commissioner Sullivan clarified is they two separate issues? Council Chair responded the root of it was the reapportionment and that's the reason they came up with staggered terms because they didn't want all nine Councilmembers starting at the same time.

Stan Fichtman of Councilmember Djou's office read Councilman Djou' written testimony into the record.

Hal Barnes stated the current Charter does provide for a strong Counsel and a strong Mayor and given this balance, they feel the application for term limits should be consistent for both the Legislative and Executive Branch. He went on to say one of the primary reasons term limits were instituted in the 1992 Charter Commission was to balance the elections with incumbents and challengers. Mr. Barnes stated often Councilmembers run unopposed even with the existing term limits. He goes on to say they do agree there is a problem with the reapportionment but this would not be the way to solve the issue of reapportionment. Commissioner Lendio asked Mr. Barnes regarding his last statement what do they think would be the appropriate way to solve the issue? Mr. Barnes stated relating to that issue he is not able to speak for the administration but could respond on his own behalf. He went on to say the U.S. is reapportioned every 10 years and often an incumbent is left without a district and has to decide whether they are going to run. This particular amendment is unique because of the staggered terms. Mr. Barnes commented there have been several different alternatives that have been articulated before the Commission and feels they deserve public debate. Commissioner Lendio then asked Mr. Barnes if this is the only instrument and the Commission moves this

proposal forward for further public input and have Corporation Counsel look at the legal issues, would this be okay for the Commission to move this proposal forward with the idea they would amend this proposal to try and resolve the looming 2012 reapportionment? Mr. Barnes responded that is 6 years in the future and the City Council has the right to have ballot issues for Charter consideration in non-Charter Commission years with the approval of the Mayor. Commissioner Lendio asked if the Mayor has a position on extending term limits to three terms of four years each? She also asked if there has been any discussion? Mr. Barnes responded no. Commissioner Lendio asked Mr. Barnes if he knew if the Mayor would also want the courtesy of adding another term to his term if they add another term to the City Council? Mr. Barnes responded he knows what's good for the goose is good for the gander.

2. **PROPOSAL 55** - Term Limits; Re term limits for Councilmembers.

The following individuals testified:

1. Tom Heinrich

Written testimony:

1. Charles Djou, Councilmember, Honolulu City Council
2. Donovan Dela Cruz, Council Chair, Honolulu City Council
3. Shannon Wood
4. Wayne Hashiro, Acting Managing Director

Tom Heinrich testified in support of moving Proposal 19 or 55 forward to allow further research and discussion. He stated as the proposal is written does not mention the main basis of this proposal is the alleged 2012 issue but clearly states the issue of term limits, which he is opposed to removing.

3. **PROPOSAL 86** - City Council; Increase the number of members on the City Council from 9 to 11 or 13.

The following individuals testified:

1. Tom Heinrich
2. Stan Fichtman, Staff to Councilmember Charles Djou, Honolulu City Council
3. Shannon Wood
4. Glen Takahashi, City Clerk's Office

Written testimony:

1. Charles Djou, Councilmember, Honolulu City Council
2. Shannon Wood

3. Donovan Dela Cruz, Council Chair, Honolulu City Council

Tom Heinrich testified in support. Mr. Heinrich stated this was under considerable discussion in 2001-2002 because of the difficulties for the City Reapportionment Commission for drawing lines for Kapolei, Makakilo, Waipahu area. He goes on to say he remembers a presentation from Ryan Yamauchi, member of the Reapportionment Commission stating one of the issues most discussed by the Reapportionment Commission, still needs to review the Reapportionment Commission Report because it was Mr. Yamauchi's representations that it was contained in their final report, a recommendation that when the Charter Commission met that they consider Proposal 86 as submitted. Mr. Heinrich stated the key the Reapportionment Commission stated was they hear the difficulties, however, this Reapportionment Commission is not able to deal with those issues. He goes on to say any enlargement to the number of Councilmembers is appropriate for the Charter Commission and urged the Commission to move forward this proposal.

Stan Fichtman of Councilmember Djou's office read Councilman Djou's written testimony into the record.

Shannon Wood testified in opposition. She goes on to say she concurs with Mr. Heinrich's statement but is ambivalent about the proposal as written and would prefer if the members is increased that it would be a mixable district and at-large seat but that is not in this proposal and recommends that the Commission defer and urge the Council to study this issue and put it in the form of a Charter amendment no later than 2010 with an effective start date of 2012.

Glen Takahashi of the City Clerk testified they do not have a position on the number of districts on this proposal but however they did provide technical support for the 2001 Reapportionment Commission. Mr. Takahashi clarified the final report of the Reapportionment Commission did not take a position on increasing or decreasing of council districts and the Commission will not find that information in the final report. He went on to say the idea did come up in the discussion as Mr. Heinrich accurately pointed out, there were a lot of controversy over drawing the lines for Ewa, Makakilo area and some of the communities asked why they can't have their own districts and thinks that is how the topic of increasing the district came upon. But it is not an official recommendation as far as the report. Commissioner Lendio asked Mr. Takahashi the 1992 Charter Commission vote on the four at-large seats, she thinks there was a ballot amendment on whether or not to add for four at-large seats to the existing City Council in 1992 that was defeated? She asked if he remembered? Mr. Takahashi responded he thinks so and offered to do the research on Commissioner Lendio's question.

4. **PROPOSAL 64** - Prosecuting Attorney; Establish a two-term limit for the office of Prosecuting Attorney.

The following individuals testified:

1. Peter Carlisle, Prosecuting Attorney, City and County of Honolulu
2. Tom Heinrich

Written testimony:

1. Shannon Wood
2. Donovan Dela Cruz, Council Chair, Honolulu City Council

Peter Carlisle testified in opposition. He stated there is a difference between the Prosecutor and other City elected officials. Mr. Carlisle clarified to be able to be a candidate to run for the Prosecuting Attorney's office there is a requirement that one has to have a professional degree, therefore they must be a lawyer, they must have completed law school and they must have passed the bar exam. This significantly reduces the number of people who are qualified to run for the office. Secondly, they have had to practice criminal law, 5 of the preceding 10 years, which reduces the position even further. Mr. Carlisle stated the Prosecuting Attorney's job is to run a major law firm and if you want to have career Prosecutors, you need to have at least the option of having a career head Prosecutor. He goes on to say this proposal was poorly thought out and only one other state that has done this which was Denver, Colorado which was done two years ago and they lost three of the best Prosecutors in the country. Commissioner Lendio stated she believes in term limits. She went on to say she likes the change, the diversity, the new blood and the freshness. Commissioner Lendio stated Mr. Carlisle would agree some of the new lawyers coming in have a different perspective on things, bring freshness to the approach of how they practice law and that's a good thing. Commissioner Lendio stated she feels strongly if you are an elected official, there should be a limit to your term. She went on to say she does have problems with historical perspective in terms of people being in office too long, being complacent and the centralization of power is something they should discuss as a very serious matter. Commissioner Lendio goes on to say she is perplexed because her proposal does not retroactive applications, it would be prospective. Commissioner Lendio goes on to ask Mr. Carlisle how would he feel with these types of approaches to this proposal? Mr. Carlisle responded it's still a bad idea. He goes on to say would they have all elective officials including Dan Inouye subject to a term limit. Commissioner Lendio clarified her proposal is talking about the City. Mr. Carlisle goes on to say it's the same issue, if she was is very much in favor of term limits, why would she do that to Inouye and how would that have helped the State of Hawaii and what is the difference between that and the City and County. Commissioner Lendio responded because the Senate runs on a seniority system

and it's a different system. She goes on to say because the voters have voted for term limits for both the Mayor's office and the City Council, she thinks as an elected position, and she thinks the Prosecuting Office should be elected and doesn't want it appointed because they should be an independent body accountable to the voters. Commissioner Lendio went on to say she believes there's been an argument to say that the Prosecutor who has a lot of power could be a very bad person at some point and there could be something that occurs over a period of time where they won't be able to come out, they've fundraised a lot, they have the machine going and it's impossible to have that change and diversity and change of approach to practicing law as a Prosecutor in that situation and that's her concern. Mr. Carlisle responded every 4 years he gets a job review and if he's terrible, corrupt, he's done horrible things and they can't attract good people. Commissioner Lendio commented it would also depend who is running against Mr. Carlisle. She goes on to say he has a long resume, he is a very strong candidate and it also depends who is running or who decides not running against him and feel this also needs to be considered. Mr. Carlisle responded of the three Prosecutors they've had, one was unseated as an incumbent. Commissioner Lendio commented for a young candidate to run against Peter, raise money and deal with the Peter Carlisle mystique she thinks there's a hesitation in doing that and feels there are benefits in change. Mr. Carlisle responded change for the sake of changing his mind is not valuable but change for a legitimate reason is valuable. Commissioner Lendio asked Mr. Carlisle if he's also saying the Mayor and the City Councilmember should not have term limits philosophically also? Mr. Carlisle responded no it's different because it's a professional office. Commissioner Lendio stated she disagreed.

Tom Heinrich testified in opposition. He goes on to say Mr. Carlisle has stated the professional requirements and the result of how much smaller the potential group of candidates. Mr. Heinrich stated this proposal provides a different place and emphasis the role of the Prosecuting Attorney needs to remain as a non-partisan elected office. He went on to say term limits as it relates to Prosecuting Attorney, having to stand election at anytime particularly as a public role as Prosecuting Attorney is different than that of the Corporation Counsel. He went on to say he continues to support the Prosecuting Attorney being an elected office but does not support the Corporation Counsel as the Chief legal officer of the City becoming an elected office. Commissioner Sullivan asked Mr. Heinrich asked for clarification if Mr. Heinrich opposes term limits for all elected officials? Mr. Heinrich responded no. He goes on to say his early testimony was supportive of term limits for the City Council and the Mayor. Commissioner Sullivan clarified Mr. Heinrich's position is similar to Mr. Carlisle's position where they feel that attorneys and the Prosecuting office are different. Mr. Heinrich responded this specific office of the Prosecuting Attorney is sufficiently different such that applying term limits to this office would have stronger negative aspects as Mr. Carlisle has referenced Denver as an example. He went on to say he thinks the duties of the Prosecuting Attorney's is sufficiently different to be able to

make the distinction between Mayor and Councilmembers because the Prosecuting Attorney is the only other elected city official. Commissioner Sullivan her dilemma is the Honolulu voters by majority votes establish and supported term limits for elected offices and they should have the opportunity to decide whether this should apply to this office as well. Mr. Heinrich responded he does not disagree with that. He stated he does have a distinct opinion on this particular proposal. Commissioner Chang asked Mr. Heinrich or Mr. Carlisle if there is a recall procedure? Mr. Heinrich responded there is for Mayor, Councilmembers and Prosecuting Attorney.

5. **PROPOSAL 83** - Prosecuting Attorney; Clarify the term duration of the Prosecuting Attorney.

The following individuals testified:

1. Tom Heinrich

Written testimony:

1. Shannon Wood

Tom Heinrich testified in support. Mr. Heinrich stated this proposal dates back 3 years before an extended discussion before the City Council Committee meeting, former director David Arakawa of the Department of Corporation Counsel, Peter Carlisle, himself and others were present with the issue of consolidating Corporation Counsel and Prosecuting Attorney's office role. He goes on to say the end result, once elected as stated in the Charter as to when the Prosecuting Attorney's term begins there is no identification of how long that term is. Mr. Heinrich stated this is a housekeeping measure that is needed.

Commissioner Lendio asked the Corporation Counsel to respond on Mr. Heinrich's testimony stating there is no end to the term. Lori Sunakoda, Deputy Corporation Counsel responded the specific provision that relates to the Prosecuting Attorney does not specify that, so that is correct and can be viewed as a housekeeping matter. Ms. Sunakoda went on to say because there was an attempt to make a comparison with the Mayor that each term is limited to four years, she thinks that is where perhaps the intent or purpose that prompted this proposal. Commissioner Lendio clarified the existing Charter, everyone is co-terminus with the Mayor because he's the appointing authority but not the Prosecuting Attorney because the electorate elects them.

6. **PROPOSAL 90** - Prosecuting Attorney; Convert the Prosecuting Attorney position from an elected position to a position appointed by the Mayor.

The following individuals testified:

1. Peter Carlisle, Prosecuting Attorney, City and County of Honolulu (Opposition)
2. Tom Heinrich
3. Don Bremner

Written testimony:

1. Shannon Wood

Peter Carlisle testified in opposition. He stated he served under an appointed City Prosecuting Attorney and it became readily apparent that the first and foremost master he had been that Frank Fasi had appointed him. He goes on to say as a result of that people realized that this was something that needed to be separated from an appointed authority. Mr. Carlisle stated it is unequivocally the only way to establish an independent office and does not like running for office but does like the effects of running for office and therefore he feels there is no reason under the Mayor. He goes on to say there were times when the Prosecuting Attorney is called upon to see whether or not there have been election campaign violations. Mr. Carlisle stated the way that works with that particular piece of penal legislation is that they either go to the Attorney General or to the Prosecutor, whoever is the most independent. Because the Attorney General has an appointed authority that looks over them, inevitably goes to the City Prosecutor. Mr. Carlisle stated that's a good thing, that's the way they keep politics out of prosecution.

Tom Heinrich testified in opposition. He stated the independence of the office is preferred.

Don Bremner testified in opposition. He stated the reason it was changed to elected office, the then Mayor was abusing the power by using the appointed Prosecutor's office to intimidate and threaten his political enemies. Mr. Bremner stated the then City Council decided that that particular advantage and pursuit should be terminated and put the proposal on the ballot to change the Prosecutor's office from the appointed position to an elected position back in 1980. Commissioner Chang thanked Mr. Bremner for the historical perspective. Commissioner Chang stated he supports Mr. Bremner's position of this proposal.

ACTION:

B. RELATING TO OFFICES AND TERMS

1. [PROPOSAL 19](#) - Term Limits; Re term limits for the City Council.

ACTION – Proposal 19 to move on for further consideration – motion failed.

Moved by Commissioner Lendio, seconded by Commissioner Mikulina.
Discussion followed.

Commissioner Lendio stated she is not in favor of eliminating term limits for Councilmembers but is very concerned about the Charter Commission's responsibility to deal with this problem on the reapportionment and staggered terms. Commissioner Lendio goes on to say if this proposal moves forward, she would like an assessment by the Corporation Counsel as to what their options are in light of the staggered terms and reapportionment in 2012. She stated she'll be in support of moving this proposal forward, though she does not like the for that it is because she supports term limits but would like it amended since this is their really the only single instrument they have to deal with this particular problem.

Commissioner Sullivan asked Corporation Counsel, the particular Section 3-102 referenced talking about term limits, she echoes Commissioner Lendio position and does not support doing away with term limits. She went on to say she respects the concerns rose by Council Chair Dela Cruz. Commissioner Sullivan stated in reading that section it refers to staggered terms and referenced Section 16-122, which is a whole other section of the Charter. Commissioner Sullivan asked if they are going to address that issue, could they technically take it out if they move this proposal forward and they are talking about another provision in the Charter. Commissioner Sullivan clarified to the other Commissioners present, if they haven't had the chance to read Section 16-122 this section is detailed and it specifies when this section was thought through when this particular section was adopted some of the language, goes forth with different scenarios with the problem of staggering. Commissioner Sullivan stated she feels if they would move this proposal forward they would have to do something similar. Deputy Corporation Counsel Dawn Spurlin stated in order to address the reapportionment issue, they would need to amend Section 16-122. They may also have to amend another Charter provision governing the reapportionment. Commissioner Sullivan stated her question was she was confused because the proposal is really to say term limits should be eliminated. Deputy Corporation Counsel Spurlin responded yes under 3-102. Commissioner Sullivan then asked if they pass the proposal are they able to address that particular issue? Deputy Corporation Counsel Spurlin responded if they are permitting approving Proposal 55. Deputy Corporation Counsel Spurlin stated there is no language in Proposal 19 but may be able to fix the problem by amending 16-122 but they still need to look at the issue. Chair Takaki asked Deputy Corporation Counsel Spurlin if they needed more time to do research. Deputy Corporation Counsel Spurlin responded in the affirmative. Commissioner Lendio asked if the Commissioners conceptually perceive in a certain direction looking at one particular section of the charter to be changed, if they conceptually agree to what they want wouldn't it be a housekeeping in trying to then make sure the other provisions of the Charter

are not in conflict with the portions of the Charter they do want to change? Deputy Corporation Counsel Spurlin responded if it was purely housekeeping they could do that but if it's going to be a substantive change, she doesn't think they could. Commissioner Lendio then asked if hypothetically they were to extend term limits to three four-year terms? Deputy Corporation Counsel Spurlin responded arguing the staggered terms conflict with the term limits. Deputy Corporation Counsel Spurlin stated it's two different things because if they still have the staggered terms but no term limits, they'll still run into the 2012 problem. Commissioner Sullivan stated she feels based on Corporation Counsel's response, she'll be supporting Proposal 55 and not Proposal 19 because Proposal 55 is broader and it references Section 3-102 and it also references Section 16-122 in order to get the most flexibility to discuss in the future she suggest supporting Proposal 55.

Chair Takaki stated he'll also be supporting Proposal 55 and see if they can get further discussion and clarification on these complex proposals.

Commissioner Chang commented he'd be voting for both proposals because he doesn't believe in term limits and the decision should be left to the voters. He feels if a person is providing very valuable institutional knowledge as well as continuity of service to their constituents strongly and firmly believed in, he feels the decision should be left to the voters and not to some artificial language to cap a person's term.

Commissioner Grau stated he'll be voting to move this forward for the same reasons. He stated he's seen government derailed by term limits in certain places and even though there and feels that people ought to serve as long as the electorate wants them to.

Commissioner Coffee stated he'd be voting against this proposal. He went on to say unless they have publicly financed elections and the details of the housekeeping issue notwithstanding and if they expect any fresh ideas into our government, or any fairness perceived by the electorate he feels term limits are important.

AYES: CHANG, GRAU, HIRANO, KAWASHIMA - 4
NOES: TAKAKI, COFFEE, LENDIO, MEDER, MIKULINA, SULLIVAN - 6
EXCUSED: MYERS, PACOPAC, TOM - 3

2. **PROPOSAL 55** - Term Limits; Re term limits for Councilmembers.

ACTION – Proposal 55 to move on for further consideration – motion passed. Moved by Commissioner Lendio, seconded by Commissioner Sullivan. No discussion followed.

AYES: TAKAKI, CHANG, GRAU, HIRANO, KAWASHIMA, LENDIO,
MEDER, SULLIVAN - 8
NOES: COFFEE, MIKULINA – 2
EXCUSED: MYERS, PACOPAC, TOM - 3

3. **PROPOSAL 86** - City Council; Increase the number of members on the City Council from 9 to 11 or 13.

ACTION – Proposal 86 to move on for further consideration – motion passed. Moved by Commissioner Lendio, seconded by Commissioner Sullivan. Discussion followed.

Commissioner Mikulina stated he thinks this proposal is a good idea. He went on to say in looking at the numbers presented to the Commissioners and in dealing with the Council he feels some districts are underserved by only having 9 seats with a population that could be a million in the near future.

Commissioner Lendio stated she'll be voting to move this forward. She goes on to say she would like input from the City Clerk's office on the census and the numbers of people they are dealing with and the increase from the last Charter Commission as to how much the population has increased especially in Leeward Oahu.

Commissioner Coffee stated they heard testimony on partisan or non-partisan offices that partisan made it easier to run for office because you could focus on a particular constituency. He goes on to say there is an issue they could address by making it easier and more attractive to run for office if they don't have that vast mass constituency that they have to cover and will be voting in favor of this proposal.

AYES: COFFEE, GRAU, HIRANO, KAWASHIMA, LENDIO, MEDER,
MIKULINA, SULLIVAN - 8
NOES: TAKAKI, CHANG - 2
EXCUSED: MYERS, PACOPAC, TOM - 3

4. **PROPOSAL 64** - Prosecuting Attorney; Establish a two-term limit for the office of Prosecuting Attorney.

ACTION – Proposal 64 to move on for further consideration – motion failed.

Moved by Commissioner Lendio, seconded by Commissioner Sullivan.

Discussion followed.

Commissioner Lendio stated she is not convinced and does not believe there's a compelling reason to not have term limits for the Prosecutor. She goes on to say she would like clarifying language in the proposal if it is moved forward that it is prospective and not retroactive.

Commissioner Sullivan stated she'd be voting to support this and echoed Commissioner Lendio statement. She goes on to say she does not believe that attorney's even in this office are faced with any different issues than politicians are when it comes to this particular issue. Commissioner Lendio stated if there are going to be uniformity on how they are handling elections, she feels it's a sensible thing to do.

Commissioner Coffee stated he favors term limits for the City Council but he doesn't favor term limits for the Prosecutor. He went on to say he was persuaded by the Prosecutor's testimony and he thinks there's an issue of professionalism, focus and training that comes into play and feels it would be valuable to not have term limits.

AYES: TAKAKI, LENDIO, MEDER, SULLIVAN - 4

NOES: CHANG, COFFEE, GRAU, HIRANO, KAWASHIMA, MIKULINA - 6

EXCUSED: MYERS, PACOPAC, TOM - 3

5. **PROPOSAL 83** - Prosecuting Attorney; Clarify the term duration of the Prosecuting Attorney.

ACTION – Proposal 83 to move on for further consideration – motion failed.

Moved by Commissioner Lendio, seconded by Commissioner Meder. Discussion followed.

Deputy Corporation Counsel Lori Sunakoda commented the response she provided earlier to Commissioner Lendio she wanted to clarify for the record, which may have been a technical or may be minor, when she responded there was nothing in the Charter she was referring to specifically Article VIII that specifically refers to the Office of the Prosecuting Attorney. With respect to that particular Article, Section 8-102, which provides for the term of office, does not specify any length of time, 2 years, 4 years or anything with respect to the length of a single term of the Prosecuting Attorney. Deputy Corporation Counsel

Sunakoda goes on to say however, with respect to the rest of the Charter, there is a provision the last sentence in Subsection 1 of Section 13-116 referring to City elections. With respect to that particular sentence in Subsection 1 of Section 13-116 relating to City elections, perhaps it could be construed that there is a reference or input that particular provision implies a number reference to a term lapsing or extending for a period of four years. Deputy Corporation Counsel Sunakoda went on to say however, there is nothing in that article relating to the Prosecuting Attorney for a specific number of years.

Commissioner Lendio asked Corporation Counsel, in reading Section 13-116 paragraph one, there seems to be intent in drafting the charter this way so that the Prosecuting election is the same time as the Mayor but not as the Governor? Deputy Corporation Counsel Sunakoda responded that's her understanding. Commissioner Lendio clarified that is why the reference to special elections is in there? Deputy Corporation Counsel Sunakoda responded in the affirmative. Commissioner Lendio clarified it would be redundant or repetitive to have it also in Article VIII? Deputy Corporation Counsel Sunakoda responded that would be their position.

AYES: NONE - 0
NOES: TAKAKI, CHANG, COFFEE, GRAU, HIRANO, KAWASHIMA,
LENDIO, MEDER, MIKULINA, SULLIVAN - 10
EXCUSED: MYERS, PACOPAC, TOM - 3

6. **PROPOSAL 90** - Prosecuting Attorney; Convert the Prosecuting Attorney position from an elected position to a position appointed by the Mayor.

ACTION – Proposal 90 to move on for further consideration – motion failed.

Moved by Commissioner Lendio, seconded by Commissioner Sullivan. No discussion followed.

AYES: NONE - 0
NOES: TAKAKI, CHANG, COFFEE, GRAU, HIRANO, KAWASHIMA,
LENDIO, MEDER, MIKULINA, SULLIVAN - 10
EXCUSED: MYERS, PACOPAC, TOM - 3

Chair Takaki asked to take a five-minute recess. Commissioner Lendio moved for a five-minute recess, Commissioner Sullivan seconded that motion. There was no objection.

***RECESS at 5:20 p.m.

(COMMISSIONER KAWASHIMA LEFT THE MEETING)

***RECONVENED at 5:28 p.m.

C. OTHER GOVERNANCE TOPICS

1. **PROPOSAL 8** - Public hearings for proposed ordinances and resolutions.

The following individuals testified:

1. Tom Heinrich
2. Don Bremner
3. Donovan Dela Cruz, Council Chair, City and County of Honolulu
4. William Woods-Bateman

Written testimony:

1. Donovan Dela Cruz, Council Chair, City and County of Honolulu
2. Shannon Wood

Tom Heinrich testified in support. He went on to say he has a little difficulty with some of the drafting of the proposal but felt some of the proposal is appropriate for the Charter as compared to leaving it to other administrative rules or legislative branch rules.

Don Bremner testified in support. He went on to say Proposal 8 is three items. The first item is to merely to say which the current charter does not say the Council has to hold a public hearing on proposed ordinances. He stated it's in their rules but it's not in the charter and the thought is this would be the best place for this. Mr. Bremner stated the second item is the proposal to require a public hearing for substantive resolutions also. Currently the Council does not have to have a public hearing on a resolution at all. Mr. Bremner stated the last item is there is a present Council rule that requires them if a bill is amended on the floor at third reading, supposedly that bill cannot be voted on that day but has to be held over at least 48 hours so the public and others can review and make comments to Council people.

Commissioner Grau asked Mr. Bremner if he had anything further to say.

Mr. Bremner continued and said the value of that rule confers constitutional rights; the right to due process and the right to petition their government for a redress also. He went on to say the problem the Council proceeds to waive the rule and stated he has an affidavit from the former City Clerk that in all of her tenure in that office the Council waived the rule more often than not. Mr.

Bremner stated the beginning of the rule starts with the language, anything to the contrary notwithstanding any bill amended on the floor in third reading has to lay over for 48 hours. He went on to say this proposal would merely make the Council follow its own rules. Commissioner Lendio asked Mr. Bremner what if there is a circumstance that it has to be passed because there is a looming deadline, has he ever seen a situation. Commissioner Lendio commented probably that is why the waiver is there for the City Council but they use it more often than not in other circumstances than urgent circumstances. Mr. Bremner responded he has not. He goes on to say personally he doesn't care what the situation is but to adhere to their rules and continue to forward the rights conveyed by those rules to the public. Mr. Bremner stated there are emergency provisions somewhere else in the Charter that apply to only really emergency situations, but there could be amendments to the language to allow for that. Commissioner Meder noted that in the substantive resolution, Council Chair Dela Cruz also points in his written testimony the definition of how to define and distinguish between what is and what isn't substantive. Commissioner Meder asked Mr. Bremner if he sees this as being a problem down the line. Mr. Bremner responded he agrees that's a critical point.

Council Chair Dela Cruz testified in opposition. He stated they already follow HRS, every bill is heard three times not including Committee hearings and Resolutions are heard at Committees and at the full Council. Council Chair Dela Cruz goes on to say they already follow HRS with the Sunshine law and allow public testimony, everyone is allowed to testify on every agenda item. Commissioner Lendio asked Council Chair Dela Cruz, though she knows he's opposes this proposal, this wouldn't impose any additional duties? Council Chair Dela Cruz responded no, but HRS already requires them to do this.

William Woods-Bateman testified he is not supportive of or concerned about directly the issue regarding the resolutions. He feels it needs to be amended at the hearing stage in terms of substantive or not which is always an issue in government. Mr. Woods-Bateman said he's concerned in the issue of the role and the issue of the HRS has nothing to do with the issue that is brought up as the concern. He went on to say the Legislature and Executive Branch are separate as well as the judicial branch in terms of government. Mr. Woods-Bateman stated you cannot sue the legislature because they can create and break their rules and the only thing that would allow you to do anything is to have a court order review of the legislative process if something that is written in the constitution which puts the balances in over one section to the other. He goes on to say this is one in which the rule is expected and already exists on the State's side, their checks and balances on their legislative side is that if in the third reading they make changes it needs to crossover to the other side and the public always has the chance to review the final language before it's made into law. Mr. Woods-Bateman stated in this case, this doesn't always happen and feels it needs to be codified in terms of the Charter to ensure that that

legislative process is the right of the public and is a policy issues. He stated he is in support for those reasons.

2. **PROPOSAL 50** - Public Hearing Notices; Reduce from ten to six the number of days a notice of public hearing must be publicized prior to such hearing.

The following individuals testified:

1. Tom Heinrich
3. Donovan Dela Cruz, Council Chair, City and County of Honolulu
4. Donald Bremner

Written testimony:

1. Donovan Dela Cruz, Council Chair, City and County of Honolulu
2. Shannon Wood

Tom Heinrich testified in support. He went on to say while he does support moving this proposal forward for further public input. Mr. Heinrich stated one of the things that must be distinguished between agency “meeting” and “public hearing” and 13-106 deals with public hearing. He went on to say Corporation Counsel would be useful in resolving part of this, HRS Chapter 91 which deals with rule making or law making directly the administrative procedures require 30 days of an advertised public notice before any rule making public hearing and as well as the HRS 92 the open meeting requirement is that 6 days in advance of that meeting is that the meeting notice and agenda be filed in the City’s case the City Clerk. Mr. Heinrich went on to say it doesn’t say anything about any requirement for advertising that meeting, if you look in 13-106 paragraph two, the language states that the public hearings be adequately publicized at least 10 days prior to such hearing in a daily newspaper of general circulation in the city. He stated he supports changing the days from 10 to 6 and upon further review it’s a matter of that placement of the advertisement for public hearing, etc. is a different purpose. Therefore he supports Proposal 54 to gather further information and clarification.

Council Chair Dela Cruz testified the 10 days notice was in place before the HRS 92-7. Council Chair Dela Cruz stated prior to that the Council only needed to have 72 or 48 hours notice at every meeting but the HRS changed that system. He stated to make this consistent, he suggested they could refer to HRS in the Charter. The Council Chair commented the Charter Commission is going to have a lot of proposals and stated the housekeeping matters could be considered by the City Council for the next election. Council Chair pointed out to the Commissioners present, when the Council has third reading, the FD1 needs to be posted on the agenda. If they do not post the FD1 on the agenda, they have to waive the 48-hour rule. He clarified they cannot make changes at the last minute and the Council Bill and Titles cannot be gutted like the Legislature.

The purpose and titles needs to be the same. If the content does not match the purpose and the title, they cannot change the bill they would have to start from scratch. Council Chair Dela Cruz went on to say they don't have Conference Committee where they can gut it or make changes even though it went through third reading. He stated the Council process is transparent, there are many checks and balances to make sure whatever is public is what they will discuss.

Donald Bremner stated the problem he is talking about is any Councilmember can make a floor amendment of any language they desire. He goes on to say they may have circulated the language to the other Councilmembers but the public has no knowledge of it at that particular time. Mr. Bremner stated the situation he was referring to be an amendment was made that was contrary to the intent purpose and direction of the bill up to that point and feels that's the difficulty and problem of waiving the rule. Commissioner Chang asked Mr. Bremner doesn't the Sunshine Law precludes the Council from doing any such maneuvers? Mr. Bremner responded evidently not. Commissioner Chang stated he thought the Sunshine Law was very restrictive and limited the opportunity for Council to do things informally. Mr. Bremner responded the Sunshine Law provides that they put out the agenda. He gave an example of an agenda item, the agenda would say Bill 60, bill title for third reading. When they get to that bill a Councilmember can raise their hand and make a floor amendment and that does not have to be provided on the agenda at all and it hasn't been and feels that's the problem. Commissioner Coffee asked Mr. Bremner on a comfort level if he could elaborate on the instance he is referring to? Mr. Bremner responded it was several years ago regarding zoning for Waikiki and in order to justify some of the proposals that were made a Planning Amendment also had to be provided. He goes on to say it was the Planning Amendment that was moved forward and passed first and second reading in one form and was form into a different form for a very critical element of that amendment which happened to be density. Mr. Bremner goes on to say the floor amendment was accepted by the Council and the 48 hour rule waive making it passed by the Council and signed by the Mayor.

Chair Takaki reminded the Commissioners and the public they are discussing Proposal 50 and not Proposal 8.

3. [PROPOSAL 11](#) - Powers and Purposes of the City; Add "justice" and "equal rights".

The following individuals testified:

1. Tom Heinrich
2. William Woods-Bateman

Written testimony:

1. William Woods-Bateman
2. Shannon Wood

Tom Heinrich testified on both Proposals 11 and 40 as they are identical. He goes on to say he is ambivalent about moving these proposals forward. Mr. Heinrich commented the construction of the words as they appear in the proposals is not a good way to write this. He stated if they compare these proposals to the preamble, the Charter is at the low end of the scale of the Constitution of the United States and then it's the State Constitution and then the Charter. Mr. Heinrich doesn't think the City and County is establishing Justice and suggest an amendment to the proposal after the phrase present and future, to put in a phrase to the effect "promote justice and equal rights under law" and continue on. He clarified that he is not moved one way or the other but goes on to say the way it is written currently, it is not in good construction to put into Section 2-102. Mr. Heinrich clarified it is very distinctively different from the preamble of the Charter and very different from the Statement of Powers in Section 2-101. Commissioner Mikulina asked Mr. Heinrich, looking at the entire sentence in 2-102, is the City Council in the business of happiness too? Mr. Heinrich responded this proposal is referring to all City powers which he would include the Legislative Branch as well as all other functions of the City.

William Woods-Bateman testified on both Proposals 11 and 40. He stated these Powers and Purposes of the City is the preamble, it is the beginning of the charter, it establishes what the City is doing, why it's doing it and for whom it's doing it. Mr. Woods-Bateman stated these are allotable as well as important factors in the government that they have justice and equal rights as a premise for going any steps further with government operations.

4. **PROPOSAL 40** - Powers and Purposes of the City; add "justice" and "equal rights".

The following individuals testified:

1. Tom Heinrich

Written testimony:

1. William Woods-Bateman
2. Shannon Wood

Tom Heinrich testified he is ambivalent about moving these proposals forward. He went on to say if the Commission moves this forward he would like to ask for a reconsideration of Proposal 83 relating to the term of Office of the Prosecuting Attorney is directly stated in Section 8-102.

C. OTHER GOVERNANCE TOPICS

1. [PROPOSAL 8](#) - Public hearings for proposed ordinances and resolutions.

ACTION – Proposal 8 to move on for further consideration – motion failed.

Moved by Commissioner Lendio, seconded by Commissioner Mikulina.
Discussion followed.

Commissioner Meder asked Chair Dela Cruz to return to respond on Mr. Bremner's last comments. Commissioner Meder stated if there is an amendment that is significantly changing something that is moving forward and the 48 hour period for public review, he feels that is going against what they are all interested in that is transparent of city government. Commissioner Meder asked Council Chair Dela Cruz to please respond to Mr. Bremner's comments. Council Chair Dela Cruz responded prior to the new Council, items were put on the agenda but they were not finalized. He goes on to say they could have a number of bills on the agenda but they were not completed. Recently the Council sanctioned a new rule stating before it is placed on the agenda, it has to be the final document that will be distributed to the public. Council Chair Dela Cruz went on to say when the agenda is posted, all the documents are complete and they are not working on them any more so the public can see exactly 6 days ahead of time, Sunshine law doesn't say the documents have to be ready, but this Council wanted to make sure they were ready. Commissioner Meder commented he thinks the point has been made here, is identifying that not all Council's have the level of ethics, interest and transparency as the current Council has. Commissioner Meder went on to say the Council's in the past have waived their own rules and this is an effort to establish something where that can't happen. Council Chair responded they still have the rule but the Commissioners could take a look at the list that Mr. Bremner is talking about but Council Chair Dela Cruz stated he could not recall a substantive change. Council Chair stated there are times where the Administration goes to the Council to advise there was a mistake or a typo or something the Council needs to fix before it becomes law. He stated that's the types of changes he is aware of as far as the 48-hour rule. Council Chair Dela Cruz goes on to say you would have to convince 6 other members that those are not major changes and anyone is allowed to testify. He goes on to say there are a lot of comparison between the Legislature and the Council. Council Chair Dela Cruz clarified the Legislature doesn't allow hearings when they are in session but the Council allows hearings at every meeting 1st, 2nd, 3rd readings in addition to all Committee meetings.

Commissioner Grau asked Council Chair Dela Cruz what would be the inconvenience would the proposed wording cause; Any bill, which is amended from the floor at third reading, shall lay over for at least 48 hours? Council Chair Dela Cruz responded they could recess the meeting and return 48 hours later but

Council meets once a month so the item would be on the floor until one month later. He clarified the Charter requires the Council to have one meeting a month. He goes on to say only the budget bill could be delayed for one week and would only need four members ask for the delay. Commissioner Grau asked if that would be a big problem or could they have a special session and pass it out 48 hours if it were necessary to get it done? Council Chair Dela Cruz responded they could call a meeting in 48 hours, they would need 6 days notice. He clarified when dealing with those changes, it's not necessary a Council bill all the time. Council Chair Dela Cruz gave examples of bills that they could wait a month, but if it was budget bills the Administration is waiting upon such as CDBG money, they would need that flexibility or they could loose a lot of money.

Commissioner Sullivan asked Council Chair Dela Cruz to clarify the current Council Rules have been updated so that the Council could not make an amendment on the Council floor it has to be already posted? Council Chair Dela Cruz responded a year ago it was posted on the agenda but the bill wasn't complete the CD1 was still being drafted. Now once the agenda is posted the CD1 is complete and on record and are able to get it. Council Chair Dela Cruz goes on to say the FD1 has to be on the agenda also and as long as the FD 1 is on the agenda they just need a simple majority to amend. If they have a new FD1 that is not agenda, they would need 6 votes to waive the 48-hour rule so they need a supermajority. Commissioner Sullivan clarified the supermajority waiver was always a rule? Council Chair Dela Cruz responded in the affirmative. Commissioner Sullivan goes on to clarify as she understands the Councilmembers could still do a floor amendment but it doesn't happen very often as she understands by Council Chair's testimony, which she asked for clarification. Council Chair Dela Cruz clarified it happens a lot but they are not major changes and the title and the purpose needs to remain the same. He stated often times it's a budget figure. Commissioner Sullivan stated she has a dilemma, she understands the need for flexibility and the concern for timing. She stated that if Councilmembers are inclined the rule could be used as a tactical matter.

Commissioner Lendio asked Council Chair Dela Cruz if this proposal is passed and adopted by the voters, they wouldn't be able to address a waiver issue, they would have to do and legislatively they would be tied to do it? Council Chair Dela Cruz responded in the affirmative. Commissioner Lendio stated that's her concern that they would not have the flexibility if an exigent circumstance to exercise the two-thirds waiver vote they need.

Commissioner Mikulina stated the biggest concern deals the budget bills and stated he's sympathetic about money issues. He stated he's also sympathetic about the point Mr. Bremner brought up and asked Council Chair Dela Cruz if he would be adverse if they the amended the language to say "toward non-fiscal" matters? Council Chair Dela Cruz responded that would mean they would have

to wait one month. Council Chair Dela Cruz clarified they have made an effort to try to not call Special Meetings.

Commissioner Coffee asked Council Chair Dela Cruz to describe how would as described by Mr. Bremner happened where a density issue inserted into a bill just before it pass, how would that not happen now? Council Chair Dela Cruz responded he has been on the Council for 4 years and he has not seen that happen. He went on to say they've tried to add all the options to the agenda. He gave an example of the landfill bill where there were 10 different floor draft amendments on the agenda so they knew every option the Council was considering prior to what they did. Council Chair Dela Cruz goes on to say he thinks this Council has tried to add more transparency, every item is on docu-share, every meeting is on Olelo, their expense accounts are online and he doesn't feel the Council is using the 48-hour rule as a tactic, they need it for flexibility.

Commissioner Mikulina reminded the Commissioners they have remember who know who would be there 6, 10 years from now and that's what the Charter is about.

Commissioner Grau asked if they move this proposal forward, could the proposal be amended that would give the flexibility if it were necessary for budget issues? Chair Takaki responded they could try. Commissioner Hirano commented it's hard to legislate good character and integrity and she thinks that's where the voting processing really occurs. Commissioner Grau stated maybe the damage is done. Commissioner Hirano responded she does know about Mr. Bremner's dilemma and that's why she wanted to know how long ago because she knows things have changed in the Council, they now have OIP over them, the can't talk to one another and everything has to be transparent in the Council. She goes on to say it's a tough process for the Council and it's an ongoing month basis and they have a lot to contend with. Commissioner Hirano stated she would not be moving this forward. Commissioner Sullivan would also not move this forward. Commissioner Sullivan stated she is sympathetic to Mr. Bremner's testimony and have also seen what can occur from this rule but feels it is not the Commission's role to micromanage the City Council. She goes on to say it's tempting to do so but this was meant to be a policy document and sometimes the line is fine on when they should get involved and when they should not and she feels they should not legislate to this degree.

AYES: GRAU, MEDER, MIKULINA - 3
NOES: TAKAKI, CHANG, COFFEE, HIRANO, LENDIO, SULLIVAN - 6
EXCUSED: KAWASHIMA, MYERS, PACOPAC, TOM - 4

2. **PROPOSAL 50** - Public Hearing Notices; Reduce from ten to six the number of days a notice of public hearing must be publicized prior to such hearing.

Commissioner Mikulina stated he appreciates the getting the things in law, Sunshine law but likes the fact of 10 days. He goes on to say congruent with the Charter Commission's Mission Statement, they ought to retain or increase transparency and public involvement and not government process.

ACTION – Proposal 50 to move on for further consideration – motion failed.

Moved by Commissioner Lendio, seconded by Commissioner Sullivan.
Discussion followed.

AYES: CHANG, HIRANO, MEDER - 3
NOES: TAKAKI, COFFEE, GRAU, LENDIO, MIKULINA, SULLIVAN – 6
EXCUSED: KAWASHIMA, MYERS, PACOPAC, TOM - 4

3. **PROPOSAL 11** - Powers and Purposes of the City; Add "justice" and "equal rights".

ACTION – Proposal 11 to move on for further consideration – motion failed.

Moved by Commissioner Lendio, seconded by Commissioner Mikulina. No discussion followed.

AYES: GRAU, LENDIO, MEDER, MIKULINA - 4
NOES: TAKAKI, CHANG, COFFEE, HIRANO, SULLIVAN - 5
EXCUSED: KAWASHIMA, MYERS, PACOPAC, TOM - 4

4. **PROPOSAL 40** - Powers and Purposes of the City; add "justice" and "equal rights".

ACTION – Proposal 40 to move on for further consideration – motion failed.

Moved by Commissioner Lendio, seconded by Commissioner Meder. Discussion followed.

Commissioner Mikulina stated he would be supporting this proposal.

Commissioner Lendio stated she would also be supporting this proposal.

Commissioner Coffee stated he would not be supporting this proposal.

AYES: GRAU, LENDIO, MEDER, MIKULINA - 4
NOES: TAKAKI, CHANG, COFFEE, HIRANO, SULLIVAN - 5
EXCUSED: KAWASHIMA, MYERS, PACOPAC, TOM - 4

4. Further Discussion and Action:

Chair Takaki discussed the future Public Outreach meeting. He stated there were three dates the Commission has selected in March, however March 14 there are only four or five Commissioners scheduled to attend. Chair Takaki stated he would like to at least have 9 Commissioners scheduled to attend in case of emergencies or Commissioner leaving early or coming late, they have at least 7 Commissioners present at all times in order to conduct business and receive public input.

Executive Administrator Narikiyo added there is a question whether they are required to have a quorum at these meeting if they are solely information gathering. He stated it was brought to his attention the City Council conducts what they call Informational Briefing as long as there is no interplay, no question and answer back and forth that they don't need a quorum. Executive Administrator Narikiyo stated it's up to the Commission the amount they would like to have present at these next meetings.

Commissioner Lendio stated she was going to bring that up also as she doesn't think there is a requirement for quorum but they would like to have as many Commissioners present especially if they are dealing with amendments floor or otherwise. Commissioner Lendio asked regarding the scheduling of the first meeting was initially scheduled for March 7th but moved it because of a request? Executive Administrator Narikiyo responded Kapolei was initially scheduled for March 7th and there were a couple of Windward dates but only one of which they were going to eventually use which was March 14th and March 21st. Executive Administrator Narikiyo goes on to say the original date they set aside was March 7th for Kapolei and there was a concern rose that it conflicted with the Democratic Party conventions.

Chair Takaki commented although it may not be required he would like to make every effort and his instructions to the staff is to have 9 Commissioners confirmed they could make the meetings in case someone has to leave early or cannot attend at all.

Deputy Corporation Counsel Dawn Spurlin commented if the Commission has quorum at the public meetings, they need to be careful what they say because they have quorum it could arguable be construed as a regular meeting and not a

public hearing. Deputy Corporation Counsel Spurlin goes on to say the purpose of the public hearing is only to take testimony and not to have discussion among the members or one on one debate with the public. She clarified if they want to speak and answer the public questions that is fine but there should be absolutely no decision making or deliberation among the members. Commissioner Lendio asked Deputy Corporation Counsel Spurlin if they could ask questions? Deputy Corporation Counsel Spurlin responded they could ask questions but to be sensitive if they have a quorum present. Commissioner Lendio the ask questions to clarify the persons position. Deputy Corporation Counsel Spurlin responded yes, that would not be a problem. The more questions they ask, the longer the public hearing is going to go and they may start asking the Commissioners questions and the Commission would need to decide who would answer the questions, whether the Commissioners would designate one person or the would tell them they are there to just take testimony. Chair Takaki responded they intend to tell the public they are there to take testimony and whoever is the Chair of the meeting for the day would be the primary spokesperson for the day.

Council Chair Dela Cruz stated they would be coordinating transportation for the Commissioners through the Clerk's office. He stated they would work with Executive Administrator Narikiyo to get the notice out.

Executive Administrator Narikiyo discussed the specific dates for the public meetings. He gave the Commissioners the dates for the upcoming meetings:

March 21, 2006 – Kailua High School
March 28, 2006 – Kaiser High School.

Executive Administrator Narikiyo stated for Kapolei he would be sending out an e-mail to poll the Commissioner on the availability.

Chair Takaki discussed the start time of the meetings. He stated Executive Administrator Narikiyo recommended 7:00 p.m. and he wanted to start at 2:00 p.m.. Chair Takaki asked the members what is they're feeling. Commissioner Hirano stated the basis of Public Hearing is really for the public and feels they have to accommodate their working schedule. Commissioner Hirano and Commissioner Lendio thinks 7:00p.m. would be appropriate. Commissioner Mikulina mentioned 6:00 p.m. Commissioner Hirano noted they should accommodate the working public. Commissioner Lendio added to remember the traffic also.

Executive Administrator Narikiyo discussed the structure of agenda and wanted to get the feelings of the Commissioners. There are 42 proposals that have passed the first phase and anything they put on the agenda they need to take testimony on and if they follow the same thus far. Executive Administrator Narikiyo goes on to say in 1992 they had three similar meetings and they limited

testimony per person say 5 or 3 minutes. He stated they could draft the agenda such that all the proposals are one agenda item and thinks that would be okay, permissible under Sunshine Law. Commissioner Lendio asked if the Charter Commission Rules permit that as she doesn't think it permits that. Executive Administrator Narikiyo responded he could not think of anything in the rules that wouldn't allow this. Commissioner Sullivan stated they settled on a track saying this is a public hearing and she's familiar with multiple types of public hearing. She goes on to say if it's an informational hearing she's used to seeing an actual presentation. Executive Administrator Narikiyo stated the purpose of these meetings is to allow people who are not able to come into town to attend these meeting an opportunity to give input into the process and to educate as well as information gathering. He envisioned a presentation either by the Chair or staff as to what is going on, the process, where the Commission is and the proposals that are still under consideration and then an opportunity for the members of the public to testify on any item they wish to testify on or ask any questions. Commissioner Lendio suggested what if they grouped the proposals in the various groups they are now and the public is allowed to testify 5 minutes on what is in that group. They would be limited to 5 minutes for 7 or 8 groups. Executive Administrator Narikiyo responded that would be fine and would make each of the group a separate agenda item but would have to check with Corporation Counsel to ensure that is appropriate. Deputy Corporation Counsel Sunakoda based upon their review of the Charter Commission rules, the rules are silent on that matter and there is no preclusion to that recommendation. Executive Administrator Narikiyo stated that would be a compromise between listing them as separate agenda items.

Commissioner Lendio suggested what if they videotaped the meetings for the Commissioners who are not able to attend to view the video. Chair Takaki stated they could look into video taping the meetings.

Commissioner Meder proposed to split the 10 categories into smaller groups to allow more time for the public to speak. He also proposed to have two meetings on the same night in different districts with the Commission split in half because as he understands from Corporation Counsel, a quorum is not necessary at these meetings. Executive Administrator Narikiyo responded the one thing that concerns him is the staff limitation and the audible equipment limitations. Commissioner Lendio suggested the Commission could have another meeting back at City Hall and to do a marathon meeting if it's necessary. Commissioner Meder responded his purpose of his suggestion is to hear the public and to get further information and clarification.

Commissioner Grau asked if all the proposals were taken as one agenda item and each speaker was limited to 5 minutes total, if that person was really passion about more than one item, that person could attend the other hearings to testify.

Chair Takaki responded they submit longer written testimony, the Commissioners could ask the individual to elaborate further.

Commissioner Lendio gave examples of the Community meetings during the 1998 Charter Commission.

Chair Takaki stated what he thinks the Commission would plan on starting the meeting at 6:00 p.m. The agenda would consist of the 10 groups and would be the Chair discretion if the time limit would be either two or five minutes per person depending on the amount of people who signs up. He noted the public has the opportunity to attend all three meetings, submit written testimony for all three meetings as well as the voting meeting in April to testify and submit written testimony.

Chair Takaki noted if any of the Commissioners have request for staff or if they want any information from the other agencies to get their request in.

Chair Takaki stated Commissioner Myers would coordinate the publicity for the Community meetings.

Commissioner Coffee asked what would be the date for the April meeting. Chair Takaki responded that Executive Administrator Narikiyo would be polling the Commissioners and noted because there are 42 proposals, there may be two or three meetings. Executive Administrator Narikiyo also responded the two dates they were looking at was April 11 and 18. Chair Takaki added the alternative date they were looking at was May 2, 2006. Executive Administrator Narikiyo clarified the April 11 or 18 would be the long meetings where the Commission makes the next vote. Chair Takaki noted that vote would send the remaining proposals to the Committee on Style and then in conjunction with Corporation Counsel and the Departments to come up with the language for final approval to be forwarded to the City Clerk's office.

5. Committee Reports

- a.** Report of the Budget Committee – No Report.
- b.** Report of the Submission and Information Committee – No Report.
- c.** Report of the Personnel Committee – Proud of the staff they have chosen and are very pleased with their work.
- d.** Report of the Rules Committee – No Report.

6. **Officers Report**

- a. Chair – Chair had no report.
- b. Vice Chair – Commissioner Mikulina had no report.
- c. Treasurer - Commissioner Myers absent.
- d. Secretary – Commissioner Pacopac absent.

7. **Announcements**

None.

8. **Next Meeting Schedule**

The next meeting would be the Community Meetings. First Community Meeting is scheduled for Tuesday, March 21, 2006 at 6:00 p.m. at Kailua High School Cafeteria.

9. **Adjournment**

Commissioner Lendio moved to adjourn, Commissioner Mikulina seconded that motion. Meeting was adjourned at 6:50p.m.